|  |  |  |
| --- | --- | --- |
| Necessary actions: | Delete this table when all actions are completed |  |
| Add a special discussion for GHG rules | Add a special section, maybe at the beginning, to discuss GHG rule proposal  See Responses 6.18, 6.19 and 11.6  Be sure “special section” agrees with 6.18, 6.19 and 11.6 |  |
| 340-224-0025 Major Mod | Discuss proposed calculations with EPA  Finalize rule  Revise RTC to match final rule  Have Paul review |  |
| Insignificant activities | Discuss with EPA with respect to Medford very low SERs.  Can we ignore insignificant for minor NSR?  How does this work with regard to low SERs that would formerly have triggered Major NSR? |  |
| 340-232-0110 Marine Loading | Finalize rule --- done, see doc RULE-232-0110-final-1-8-15  Revise RTC 1.31 to match ----done 1-8-15  Have Paul review |  |
| 340-208-0450 | Revise RTC to match final rule  There is still an issue to resolve, see comment at page 7, 1.9 |  |
| RTC 1.19 | finalize |  |
| RTC 6.17 | Can woodstoves be designated as priority sources in K-Falls?---possibly, but not enough time, rely instead on 204-0320(2), see response to comment  The rule is ok (340-204-0320), no changes needed.  Additional rule checks are needed as noted in comments on 6.17 |  |
| Alternative testing methods | Check all rules for places where alternative testing has been deleted, if any, and replace with a reference to 340-212-0140 |  |

Special Discussion of Greenhouse Gas (GHG) Rules

---include background discussion (EPA rules, court decision, DEQ rules not struck down, temp rule, etc.)

DEQ requested comments on whether Oregon’s rules should be changed to follow the Supreme Court’s ruling or should retain those elements that the Court struck down. Not surprisingly, comments were received supporting both approaches. To help make a final proposal, DEQ considered the following question:

***Is there a significant environmental benefit to retaining the provisions that make a source subject to Title V permitting and PSD alone?***

Before considering this question, please note that terms are used that refer to other elements of the air quality permitting program. Such terms are defined in the rules and that will be noted; however, for the sake of this discussion it is not necessary to understand the exact meaning of the terms.

Title V

Title V is a permitting program required by the Clean Air Act Ammendments of 1990. The required permits are very comprehensive and must include conditions that implement all applicable regulations. However, Title V does not impose new or additional regulations, nor does Title V make any regulations more stringent. In effect, a Title V permit is simply a type of permit.

In Oregon, DEQ’s Air Quality program issues two types of permits: Air Contaminant Discharge Permits (ACDPs) and Title V permits. The ACDP program existed before 1990 when the Title V program was created. When the 1990 Clean Air Act Amendments came into being, DEQ elected to create the Oregon Title V permit program while retaining the ACDP program. The primary differences between these two programs are noted below:

|  |  |
| --- | --- |
| **Title V** | **ACDP** |
| Applies to sources that emit 100 tons per year or more of any regulated air pollutant other than Hazardous Air Pollutants (HAP), and to sources that emit 10 tons per year or more of any single HAP or 25 tons per year or more of any combination of HAPs. | Applies to sources that emit less than100 tons per year or more of any regulated air pollutant other than Hazardous Air Pollutants (HAP), and to sources that emit less than 10 tons per year or more of any single HAP and less than 25 tons per year or more of any combination of HAPs. |
| Title V has a citizen lawsuit provision which allows citizens to enforce Title V permits by filing a lawsuit if the permitting agency does not appropriately enforce the permit. | There is no citizen lawsuit provision for ACDPs. |

Aside from the differences described above, both types of permits perform the same function: they specify the regulations that a permitted source is subject to and how the source must demonstrate compliance with those regulations. As noted earlier, Title V does not increase the stringency of the regulations, so both types of permits are equally stringent. That being the case, there is no environmental benefit associated with Title V permits and therefore no environmental reason for retaining the provision that makes sources subject to Title V solely on the basis of their GHG emissions.

Prevention of Significant Deterioration (PSD)

PSD is a preconstruciton permitting program that applies to large sources located in attainment or unclassified areas. Since there is no such thing as a nonattainment area for GHGs, all areas are attainment or unclassified for GHGs.

In general, when a source becomes subject to PSD the source must perform one or more air quality analyses and one or more Best Available Control Technology (BACT) analyses. For a source subject to PSD, the air quality and BACT analyses must be performed for each pollutant for which the source makes a Major Modification (defined in the rules). Thus, while PSD may be triggered for one pollutant, any other pollutants for which Major Modifications are made are included in the PSD permit evaluation.

In Oregon, a source must be classified as a “federal major source” before it can be subject to PSD. If Oregon follows the Court’s decision, a source could not be classified as a federal major source for GHGs. If Oregon does not follow the Court’s decision, a source could be classified as a federal major source for GHGs. The threshold to be a federal major source for GHGs is 100,000 tons per year CO2e; for other pollutants the threshold is (in most cases) 250 tons per year.

The table below gives three scenarios that illustrate the differences between following or not following the Court’s ruling. The differences between the scenarios are noted in bold italic print.

|  |  |  |
| --- | --- | --- |
| **Scenario A** | **Scenario B** | **Scenario C** |
| Oregon ***does not follow*** the court’s ruling | Oregon ***follows*** the Court’s ruling | Oregon ***follows*** the Court’s ruling |
| Source has GHG emissions ***over*** 100,000 tons per year CO2e | Source has GHG emissions ***over*** 100,000 tons per year CO2e | Source has GHG emissions ***less than*** 100,000 tons per year CO2e |
| Source ***does not have other emissions*** at or over 250 tons per year | Source ***does not have other emissions*** at or over 250 tons per year | Source ***has NOx emissions*** at or over 250 tons per year |
| Source has a major modification for GHGs | Source has a major modification for GHGs | Source has a major modification for GHGs |
| Source has a major modification for NOx | Source has a major modification for NOx | Source has a major modification for NOx |
| **Result of this scenario** | **Result of this scenario** | **Result of this scenario** |
| Source ***is*** a federal major source because of GHGs. | Source ***is not*** a federal major source. | Source ***is*** a federal major source because of NOx. |
| PSD ***is*** triggered by the major modifications for GHG and NOx. | PSD ***is not*** triggered by the major modifications for GHG and NOx. | PSD ***is*** triggered by the major modifications for GHG and NOx. |
| Air quality analysis ***is*** required for NOx. | Air quality analysis ***is*** required for NOx. | Air quality analysis ***is*** required for NOx. |
| BACT analysis ***is*** required for GHG and NOx. | BACT analysis ***is not*** required for GHG and NOx. | BACT analysis ***is*** required for GHG and NOx. |

Other scenarios are possible, but these three illustrate the essential differences between following and not following the Court’s ruling. Note in particular:

* In all three scenarios, an air quality analysis for NOx is required. This analysis ensures that air quality will not exceed the ambient air quality standards or PSD Increments (defined in the rules).
* In all three scenarios, an air quality analysis for GHGs is not required. There are no ambient air quality standards for GHGs to compare the results to.
* Scenario C illustrates the so-called “anyway source”. The source is subject to PSD for a pollutant other than GHGs, but GHGs are also subject to PSD. Sources in this scenario will be subject to PSD whether Oregon does or does not follow the Court’s ruling.

The real difference above is that sources in Scenario B would not be required to perform a BACT analysis for any of the pollutants. The remainder of this discussion will examine what that means in terms of quantity of GHGs regulated and BACT determinations.

Quantity of GHGs regulated

In June, 2014, the Supreme Court of the United States issued a ruling in the following case:

UTILITY AIR REGULATORY GROUP v. ENVIRONMENTAL PROTECTION AGENCY ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12–1146. Argued February 24, 2014—Decided June 23, 2014

On pages 9 and 10, the Court’s document cited above states that EPA provided the following testimony during the trial:

“… “anyway” sources account for roughly 83% of American stationary-source greenhouse-gas emissions, compared to just 3% for the additional, non-“anyway” sources EPA sought to regulate ….”

DEQ interprets EPA’s testimony as follows: 86 percent of the total American stationary-source greenhouse-gas emissions could be subject to PSD if both “anyway” and non-“anyway” sources are regulated; the percentage drops from 86 to 83 percent if non-“anyway” sources are not regulated. DEQ does not believe these percentages can be directly applied to Oregon, but they serve to indicate that the majority of GHG emissions could still be regulated under PSD regardless of whether Oregon follows the Court’s ruling or not.

Finally, DEQ wishes to point out that sources become subject to PSD infrequently. The percentages discussed in the preceding paragraph refer to the universe of sources that could, but won’t necessarily, become subject to PSD.

GHG BACT determinations

In simple terms, a BACT analysis is an evaluation process that leads to conclusion. The purpose of a BACT analysis is to evaluate emission control options and to determine which, ***if any***, must be used. BACT is often referred to as “top-down” BACT, and a BACT analysis consists of the following 5 step process:

Step 1 – Identify all available control options

Step 2 – Eliminate technically infeasible options

Step 3 – Ranking of controls

Step 4 – Economic, energy, and environmental impacts

Step 5 – Selecting BACT

It is possible for a BACT analysis to determine that an emission control system must be installed. It is also possible for a BACT analysis to determine that no emission controls are feasible; this can occur at Step 2 or Step 4. The individual steps are described in more detail below.

In Step 1, all available control options must be identified. The term available is important; in general, the control option has to be exist and be commercially available.

In Step 2, the identified options are reviewed and any that are found to be technically infeasible are eliminated. In general, emission control options are technically feasible if they are in use by other facilities in the same industry or at facilities that have processes that are similar enough to conclude that the emission control will work for the process being considered in the review. If none of the options are technically feasible, the review is done and BACT determination is no control.

In Step 3, all control options that are considered technically feasible (if any) are ranked by effectiveness, with the most effective ranked first, the next most effective ranked second, and so on to the least effective.

In Step 4, the first-ranked option is reviewed for economic, energy and environmental impacts. If any of these impacts is found to be unacceptable, that option is rejected and the second-ranked option is reviewed. If the second-ranked option is rejected, then the third-ranked option is reviewed. This “top-down” review continues until an option is found to have acceptable economic, energy and environmental impacts. It is possible for all options to be rejected.

In Step 5, BACT is determined to be the highest-ranking option reviewed in Step 4 that is not rejected because of economic, energy and environmental impacts. If all options are rejected, the BACT determination is no control.

The following is not a full BACT analysis, but is DEQ’s opinion based on knowledge of the BACT process and the available or lack of feasible emission controls for GHGs. GHG emissions can broadly be divided into two categories: combustion emissions and high global warming potential (GWP) gases.

Combustion emissions refers to gases emitted by devices that burn fuel, and consist mostly of carbon dioxide. Combustion emissions account for most GHG emissions, and are emitted by a large number of sources ranging from large electrical power plants to cars and home furnaces.

High GWP gases are typically fluorine-containing gases, such as hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride, that have a global warming effect that is hundreds or thousands of times more potent than carbon dioxide. The global warming potential (GWP) of a gas is a measure of how potent it is compared to carbon dioxide. The GWP of sulfur hexafluoride, for example, is 23,900; this means that one ton of sulfur hexafluoride has the same effect as 23,900 tons of carbon dioxide.

High GWP gases are used as process gases in only a few industries, including the semiconductor manufacturing industry.

According to an EPA website (http://epa.gov/climatechange/ghgemissions/gases/fgases.html) perfluorocarbons (PFCs) are compounds produced as a by-product of various industrial processes associated with aluminum production and the manufacturing of semiconductors. PFCs generally have long atmospheric lifetimes and high GWPs. Sulfur hexafluoride is used in magnesium processing and semiconductor manufacturing, as well as a tracer gas for leak detection. HFC-23 is produced as a by-product of HCFC-22 production. Of particular interest for this discussion is the use and emission of PFCs and sulfur hexafluoride by the semiconductor industry.

With respect to combustion emissions, GHG emission control options are very limited. There are no emission control devices for GHGs. One option that has been considered is underground sequestration of carbon dioxide. This involves injecting the carbon dioxide deep into the ground; however, this option would only be effective if the geological formation would permanently trap the gases underground, either by chemical reaction or by effectively sealing off the gases so they could not percolate upward. If neither of these conditions can be met, the gases will eventually leak back into the atmosphere. This technology is believed to be feasible, but the necessary geological formations are not available everywhere, and is therefore not a broadly available option.

The most viable option for reducting GHG emissions is to simple produce less GHG by burning less fuel; this translates to using energy-efficient equipment so that less fuel can be burned for the desired output. Energy efficiency is generally regarded as BACT for combustion GHGs. However, there are other factors, such as economics, that point to using energy-efficient equipment. For many industries, energy represents a major on-going operating cost; the need to minimize operating cost would lead to the use of energy-efficient equipment without BACT. In DEQ’s opinion, BACT for combustion GHGs is of little practical value, and any new non-“anyway” sources that would not be subject to PSD if Oregon follows the Court’s ruling would likely install energy-efficient equipment anyway.

Finally, there is considerable interest in using biomass fuel. Biomass fuel is considered by many to be carbon-neutral, or at least partially so. Carbon-neutral means that the amount of carbon dioxide emitted by burning the fuel is offset by the carbon dioxide used to grow the biomass, resulting in no net increase in atmospheric carbon dioxide. Considerable work remains to be done in this area to determine the real effect of using biomass, but it’s possible that use of biomass fuel will itself be considered BACT. It should be noted that BACT cannot be used to force a source to switch from a fossil fuel to biomass fuel. Therefore, if this does become a BACT option, it will only apply to facilities that are designed from the outset to burn biomass.

In summary, there are limited BACT options to reduce combustion GHG emissions, and there are business factors that will tend to achieve the same end.

With respect to high GWP gases, the industry of greatest interest in Oregon is the semiconductor industry. Companies in this industry worked together and with EPA to reduce GHG emissions (this is also discussed in response 6.18 below). Reductions were accomplished in part by process changes, partly by using different gases, and partly by the use of GHG emission control devices, known as point of use devices, or POUs. Thus, for this industry, there is an actual emission control option that could be considered in a BACT analysis. However, as far as DEQ knows, POUs are the only option, so a BACT analysis would be limited to considering that single option. Clearly, POUs are avaible and in use so they cannot be rejected on the grounds of being technically infeasible. Although DEQ has not done a cost analysis, it appears that POUs are cost-effective; nor do their energy and environmental impacts appear to be excessive. If a BACT analysis were done, the likelihood is that the use of POUs would be considered BACT, but since POUs are already in use, the actual conclusion would be “continue doing what you’re already doing; that is, continue using POUs”.

In summary, for the semiconductor industry, a BACT analysis would likely result in no change from current practices.

Non-GHG BACT determinations

In Scenario B, which repreents the case of non-“anyway” sources if Oregon follows the Court’s ruling, no BACT determinations would be required. This means that there would be no BACT determination for NOx, whereas there would be BACT determinations for NOx in the other two scenarios. As discussed above, DEQ believes there is likely little to be gained from GHG BACT determinations. However, emission control devices and methods do exist for NOx and are in common use, so BACT determinations for this pollutant as well as other non-GHG pollutants could have some environmental benefit. In DEQ’s view, this is probably the biggest reason at this time

Conclusion

Based on the discussion above, DEQ believes there is little environmental benefit to be gained by making non-“anyway” sources subject to PSD for GHGs. DEQ therefore recommends….

| **Summary of Comments and DEQ Responses** | |
| --- | --- |
| Category 1: Clarify and update air quality rules | |
|  | The commenter requests that DEQ incorporate the recent holdings of the Sixth Circuit and the D.C. Circuit defining the term “adjacent.” In 2012, the Sixth Circuit rejected EPA’s position that a determination of whether two facilities are “adjacent” rides in material part on whether those facilities are interdependent. Instead, the Sixth Circuit held that it was unreasonable to read the term “adjacent” to refer to interdependence as opposed to simply physical proximity. We urge DEQ to revise its definition of “adjacent” to read “two facilities that are nearby each other” and to eliminate the suggestion that interdependence is an appropriate criterion for evaluating adjacency.  DEQ received comments in this category from commenters 12 and 44 listed in the *Commenter section* below.  Response:  *DEQ has implemented the definition of “adjacent” as meaning interdependent facilities that are nearby to each other for many years. In cases where two facilities have been considered a single source, the decision made used interdependent in the majority of those cases. DEQ is concerned about undoing those decisions. The Clean Air Act’s savings clause makes clear that states may regulate above and beyond federal standards. 42 U.S.C. § 7416 (stating that “[n]othing in this chapter shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce (1) any standard or limitation respecting emissions of air pollutants or (2) any requirements respecting control or abatement of air pollution; except that if an emission standard or limitation is in effect under an applicable implementation plan” the state standard must be more stringent than federal requirements). Essentially, the federal standards are a floor and not a ceiling, and states have the discretion to impose more stringent limitations. Thus while the CAA limits the scope of EPA’s authority, it reserves broad authority to the states to impose more stringent limitations.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.2 | The commenter is concerned over the addition of the definition for “day,” which the proposed rulemaking defines as “a 24-hour period beginning at 12:00 a.m. midnight.” Many of our facilities measure a production day based on shift schedules, which may start anywhere from 6:00 a.m. to 8:00 a.m., and occur on an 8-hr, 10-hr, or 12-hr rotational basis. The commenter requests that DEQ remove the proposed rule language for “day.”  DEQ received comments in this category from commenter 48 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter and changed the proposed rules to allow for “day” to also be defined in a permit.* |
| 1.3 | “Fuel Burning equipment” has long been defined, somewhat counter-intuitively, as exclusively fuel burning equipment producing heat or power by indirect heat transfer, i.e., boilers. DEQ proposes to change that definition to include dryers and process heaters, resulting in the sulfur dioxide standards becoming applicable requirements for these newly covered units. Unless DEQ intended to change the applicable requirements, OAR 340-228-0200 should be revised to specify that it only applies to fuel burning equipment producing heat or power by indirect heat transfer.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48, and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the comment and changed the proposed rule to retain the meaning of “fuel burning equipment”. However, “fuel burning equipment” was defined in three different divisions of OAR 340, and each definition was different from the others. DEQ determined the definition formerly in OAR 340 division 228 best describes “fuel burning equipment” and this definition has been moved from OAR 340 division 228 to OAR 340 division 200. DEQ deleted the other. DEQ added the term “internal combustion engine” in the definition of “fuel burning equipment,” and added a definition of “internal combustion engine” to OAR 340 division 200.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.4 | DEQ must revise its regulations regarding Significant Impact Levels for PM2.5 (OAR 340-200-0020) to maintain consistency with EPA’s regulations and federal case law.  In 2010, EPA established Significant Impact Levels for PM2.5 to determine whether a new source may be exempt from certain requirements under the Prevention of Significant Deterioration program. EPA described a Significant Impact Level as a numeric value that represents the level of ambient impact below which EPA has determined a source will have an insignificant effect on ambient air quality. Thus EPA reasoned that if a new or modified source demonstrates its impact does not exceed a Significant Impact Level at the relevant location, it may be exempt from the extensive air analysis and modeling required to show its additional emissions will not cause or contribute to a violation of the National Ambient Air Quality Standards.  In January 2013, the D.C. Circuit Court of Appeals vacated and remanded EPA’s regulations at 40 C.F.R. §§ 51.166(k)(2) and 52.21(k)(2). Sierra Club argued that proposed sources in an area on the verge of violating the National Ambient Air Quality Standards or an increment could violate the National Ambient Air Quality Standards or an increment even if the resulting emission levels would fall below the Significant Impact Level. As a result, EPA amended its regulations to remove the vacated PM2.5 significant impact levels. DEQ must likewise revise its rules to maintain consistency with the federal regulations and the decision by the D.C. Circuit Court of Appeals.  DEQ received comments in this category from commenter 40 listed in the *Commenter section* below.  Response:  *DEQ is aware of the D.C. Circuit Court of Appeals decision to vacate and remand EPA’s regulations at 40 C.F.R. §§ 51.166(k)(2) and 52.21(k)(2), the Significant Impact Levels for PM2.5. DEQ worked closely with EPA Region 10 to address the problem of proposed sources in an area on the verge of violating the National Ambient Air Quality Standards or an increment that could violate the standards or an increment even if the resulting emission levels would fall below the Significant Impact Levels.*  *Because the CAA’s Prevention of Significant Deterioration provisions require a demonstration that the source will not cause or contribute to a violation of the National Ambient Air Quality Standards or increment as a precondition to construction, 42 U.S.C. § 7475(a)(3), DEQ has added the following or similar language to OAR 340-202-0050(2) Purpose and Scope of Ambient Air Quality Standards, 340-224-0070(3)(c) Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas, 340-224-0245(4) Requirements for Sources in Sustainment Areas in State New Source Review, 340-224-0260(2)(d)) Requirements for Sources in Maintenance Areas in State New Source Review, 340-224-0270(1)(d) Requirement for Sources in Attainment and Unclassified Areas in State New Source Review, and 340-225-0060(2)(c) Requirements for Demonstrating Compliance with Standards and Increments in Prevention of Significant Deterioration Class I Areas:*  *“No source may cause or contribute to a new violation of an ambient air quality standard or Prevention of Significant Deterioration increment even if the single source impact is less than the significant impact level.”*  *If a source’s impacts are less than the significant impact level, DEQ would ensure that a new violation of an ambient air quality standard or Prevention of Significant Deterioration increment does not occur by adding the following rule language:*  *340-225-0050*  *Requirements for Analysis in Prevention of Significant Deterioration Class II and Class III Areas*  *Modeling: For determining compliance with the AAQS, Prevention of Significant Deterioration increments, and other requirements in Prevention of Significant Deterioration Class II and Class III areas, the following methods must be used:*  *(1) For each regulated pollutant, a single source impact analysis is sufficient to show compliance with the AAQS and Prevention of Significant Deterioration increments if:*  *(a) The modeled impacts from emission increases equal to or greater than a SER above the netting basis due to the proposed source or modification being evaluated are less than the Class II significant impact levels specified in OAR 340-200-0020; and*  *(b) The owner or operator provides an assessment of factors that may impact the air quality conditions in the area to show that the SIL by itself ensures that the proposed source or modification will not cause or contribute to a new violation of an AAQS and Prevention of Significant Deterioration increment. The assessment must take into consideration but is not limited to the following factors:*  *(A) The background ambient concentration relative to the AAQS;*  *(B) The emission increases and decreases since the baseline concentration year from other sources that are expected to cause a significant concentration gradient in the vicinity of the source. Determination of significant concentration gradient may take into account factors including but not limited to ROI formula, spatial distribution of existing emission sources, topography, and meteorology.*  *The rules would require sources to show that the SIL by itself is protective of ambient air quality standards and Prevention of Significant Deterioration increments. If it is not, the source will be required to complete a competing source analysis which involves modeling all the sources in the area that consume part of the airshed.*  *DEQ monitors ambient air quality in areas where air quality is approaching standards. To address the concern that a permitting authority could authorize numerous sources as de minimis that in reality would have a cumulative impact in violation of the National Ambient Air Quality Standards or an increment under EPA’s policy, DEQ uses ambient monitoring data that measures background concentration. Ambient concentrations from emissions from all sources, including large and small industrial sources, mobile sources, off road sources, wildfires, and open burning contribute to the background concentration measured at the monitoring site. Even though some sources will not be required to perform an individual ambient air quality analysis because their emissions are less than the thresholds required for such an analysis, DEQ will carefully scrutinize smaller sources in areas where the air quality is close to the standards. After these sources are constructed, their emissions will be included in the background concentration measured by the monitors but until then, DEQ will analyze their emissions in relation to the background concentration to ensure that a violation of the National Ambient Air Quality Standards or Prevention of Significant Deterioration increment does not occur.*  *The PM2.5 significant impact levels are an important tool when determining whether a single source impact analysis is sufficient or whether a competing source analysis should be required, especially in areas where background concentrations are not close to ambient air quality standards. To address cases when the area is close to violating an ambient air quality standard, DEQ proposes rules to address the problem of new or modified sources in an area on the verge of violating the National Ambient Air Quality Standards or an increment even if the resulting emission levels would fall below the SIL. In those areas, the source would not be allowed to construct or modify if impacts were below the SIL and the National Ambient Air Quality Standards or increment would be violated.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.5 | DEQ should revise the definition of significant impairment to include impacts to other Air Quality Related Values pursuant to recommendations from the federal land manager and the Federal Land Mangers’ Air Quality Related Work Group Report. Revise to clarify relationship between “significant impairment” and “adverse impacts” as defined by the National Scenic Area Act.  DEQ received comments in this category from commenter 24 listed in the *Commenter section* below.  Response:  *At this time, DEQ proposes no changes to the definition of “significant impairment” in OAR 340-200-0020. Any changes should be part of a broader review of the Columbia River Gorge Air Study and Strategy because the comment requests significant policy changes. The Gorge Commission, Southwest Clean Air Agency and DEQ, authors of the strategy, should all be included in this discussion.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.6 | Crater Lake National Park was established in 1902 by Public Law 32 Stat. 20. The park currently has no designated wilderness, so Public Law 88-577 does not apply. Also, deleted and expanded in the 1990 Clean Air Act Amendments. Crater Lake’s last boundary expansion occurred in 1980 under Public Law 96-553.  DEQ received comments in this category from commenter 39 listed in the *Commenter section* below.  Response:  *DEQ determined the Public Law is 32 Stat. 202. DEQ changed the proposed rules in response to this comment.* |
| 1.7 | DEQ should revise the rule language to acknowledge any change to Prevention of Significant Deterioration area boundaries that may occur subsequent to August 7, 1977 or November 15, 1990.  DEQ received comments in this category from commenter 24 listed in the *Commenter section* below.  Response:  *Clean Air Act section 164 (42 USC section 7474) requires areas designated by states as Class I areas to “conform to any changes in the boundaries of such areas which have occurred subsequent to August 7, 1977, or which may occur subsequent to November 15, 1990.”  DEQ must keep designations of Class I areas current with the current wilderness and national park boundaries but cannot adopt a prospective rule to incorporate future boundary changes. DEQ proposes to update the rule to incorporate any boundary changes that have occurred between August 7, 1977 and the EQC adoption date of this rule.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.8 | The rules currently provide the permittee 10 working days from the close of the public comment period in which to provide a written response to comments submitted by the public. DEQ has repeatedly been unable to provide copies of the comments submitted in a timely manner, forcing the source to either give up its right of rebuttal or postpone issuance of its permit by several more weeks.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48, 57, and 58 listed in the *Commenter section* below.  Response:  *DEQ changed proposed revisions to OAR 340-208-0080(3) to require applicants to submit a written response to any comments submitted by the public within 10 working days after DEQ provides the applicant with a copy of all written comments received by DEQ.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.9 | DEQ is proposing to modify OAR 340-208-0450, the prohibition on depositing particulate larger than 250 microns on the property of another, in such a manner to undo the revisions that AOI and DEQ worked so hard to develop a dozen years ago. DEQ should simply eliminate OAR 340-208-0450. The rule is not part of the SIP and is both outdated and irrelevant. It is a rule that prohibits particulate of a size that is not respirable and poses no health threat. If this rule is purely aimed at nuisance particulate, then it is duplicative of OAR 340-208-0300. If OAR 340-208-0450 is retained, then it should not be changed.  In 2001, DEQ worked with AOI to address the issue of how Title V sources can certify compliance with OAR 340-208-0450. As DEQ acknowledged, a single wood chip bouncing across a property line and onto a public road could cause a source to have to certify noncompliance. DEQ agreed to change the rule to say that there was only noncompliance if DEQ informed the source that a nuisance was being created. The new proposed language completely reverses that agreed upon approach and returns the rule to its unworkable form of 12 years ago. In addition, the changes increase the stringency as the current language includes the concept of duration and quantity--language that DEQ proposes to delete.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48, and 58 listed in the *Commenter section* below.  Response:  *While AOI and DEQ may have negotiated the current language in 2001, the current language creates a problem of enforceability.*  *The current rule states:*  *“No person may cause or permit the emission of particulate matter larger than 250 microns in size at sufficient duration or quantity as to create an observable deposition upon the real property of another person when notified by the department that the deposition exists and must be controlled.”*  *The phrase “when notified by the department that the deposition exists and must be controlled” was added in 2001. This phrase results in an unusual rule that can be interpreted as follows: a source can only be in violation of this rule after DEQ staff inform the source that the deposition exists and must be controlled. In other words, any occurrences of the deposition that occur before DEQ staff have informed the source that the deposition exists and must be controlled cannot be cited as violations of this rule. There are few, if any other rules in Divisions 200 through 268 that operate in this unusual manner. Normally, a rule itself serves as the notification that a certain activity or emission is not allowed, and DEQ does not have to provide a second notification before it can cite a facility for a violation of a rule. DEQ can see no reason why OAR 340-208-0450 should not operate in the same manner.*  *DEQ recognizes that a source may not be aware that it has created an observable deposition upon another’s real property and may therefore incorrectly certify compliance with the rule. But this problem is not unique to this rule, and does not justify the unusual requirement to give a second notice before a violation can be cited. For example, a facility may exceed an opacity standard, but if the exceedance is not observed by anyone, then a facility may in this instance also incorrectly certify compliance with the standard. In both of these cases, the key concept is that compliance or noncompliance with a rule or standard is verified by observation (i.e. monitoring).*  *DEQ agrees that this rule is directed at addressing nuisances, but DEQ does not agree that this rule is duplicative of OAR 340-208-0300, which states in part that “No person may cause or allow air contaminants from any source subject to regulation by the department to cause a nuisance.” OAR 340-208-0300 prohibits causing a nuisance, but does not define nuisance. Unlike OAR 340-208-0300, OAR 340-208-0450 specifically addresses the emission of particulate matter larger than 250 microns in size, such that an observable deposition is created upon the real property of another person. However, in view of this, DEQ has determined that enforcement guidance should allow for a notification before a warning letter citing a violation.*  *DEQ changed the proposed rule to provide clarification.* |
| 1.10 | OAR 340-210-0205(2)(e) should be revised to clarify that it is not just any NSPS or NESHAP that makes a categorically insignificant activity subject to the state NOC program, but only those NSPS and NESHAP that DEQ has adopted. If DEQ has chosen not to adopt an NSPS or NESHAP, that NSPS or NESHAP should not force the otherwise categorically insignificant activity to obtain a state construction approval. That source will have to comply with the federal notice provisions under the NSPS and NESHAP program, but should not have to comply with Division 210.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48, and 58 listed in the *Commenter section* below.  Response:  *The exemption for categorically insignificant activities from the Notice of Construction program unless the activity is subject to a New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants has been in OAR 340-210-0205(2) since 2001. DEQ has adopted or is in the process of adopting all the NSPSs and NESHAPs that EPA allows to be delegated. Therefore, categorically insignificant activities subject to a NSPS or NESHAP will continue to be subject to the notice of construction program.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.11 | DEQ should not make changes to the language of OAR 340-210-0225(1)(c), (2)(c) and (3)(b). The proposed rule appears to alter the requirements of the construction approval process. DEQ proposed rules are considerably more stringent because they eliminate the ability of a source to net any increase against any decreases associated with the project. This existing provision to allow internal netting has been the most successful aspect of Oregon’s air permitting program in allowing sources to avoid lengthy and costly permitting processes through removal of old emissions units to allow installation of new, cleaner emitting units. A source replacing a flare with 50 tons per year of CO emissions with another flare with 50 tons per year of CO emissions should be able to conclude that there is at best a de minimis increase of emissions rate. The proposed language would eliminate this flexibility.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48, and 58 listed in the *Commenter section* below.  Response:  *DEQ determined the intent of OAR 340-210-0225(1)(c), OAR 340-210-0225(2)(c) and OAR 340-210-0225(3)(b) was unclear to facilities and proposed changes to these rules in order to clarify the original intent. Part of the current rule is copied below.*  *(1) Type 1 changes include construction or modification of stationary sources or air pollution control equipment where such a change:*  *(a) Would not increase emissions above the Plant Site Emission Limit by more than the de minimis levels defined in OAR 340-200-0020 for sources required to have a permit;*  *(b) …;*  *(c) Would not increase emissions from any stationary source or combination of stationary sources by more than the de minimis levels defined in OAR 340-200-0020;*  *(d) …; and*  *(e) ....*  *Note that subsection (a) addresses how much the change increases emissions above the Plant Site Emission Limit, while (c) addresses how much the change increases emissions from “any stationary source or combination of stationary sources.” DEQ’s intent in drafting this rule in 2001 was that subsection (c) considers only the equipment that is actually being modified or installed in isolation. While subsection (a) of the rule was intended to take netting into account, subsection (c) was never intended to take netting into account.*  *For example, a facility may make a change to a piece of equipment that is expected to change emissions from that piece of equipment by less than the de minimis amount, and the criteria of both (a) and (c) will be met. However, if a piece of equipment that emits 2 tons per year (i.e. more than de minimis) is replaced with an identical piece of equipment that also emits 2 tons per year, then the criterion in (a) is met because the net increase in emissions is zero, but the criterion in (c) is not met because the new piece of equipment has emissions greater than de minimis.*  *DEQ determined criterion (c) was unclear and the proposed changes are intended to clarify the original intent. DEQ proposed the changes to OAR 340-210-0225(2)(c) and OAR 340-210-0225(3)(b) for the same reason.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.12 | DEQ should not regulate non-stationary sources. DEQ has no jurisdiction to require that the Notice of Construction program be applied to non-stationary sources such as non-road engines, unless they remain stationary long enough to convert to being stationary sources. There is no definition of a “portable source” either in the current or proposed regulation. We request that DEQ either delete proposed source category 89, which would apply to any portable sources DEQ determines present “an air quality concern,” “significant malodorous emissions,” or actual emissions over specified levels, entirely or revise it to make clear that it only applies to portable sources that are or are part of a stationary source.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48, 57, and 58 listed in the *Commenter section* below.  Response:  *The Clean Air Act preempts states from adopting motor vehicle standards and most standards for non-road engines, including ships and locomotive. There are some exceptions in both categories for California to adopt standards and other states to copy those. The definition of “source” in OAR 340-200-0020 includes only a “building, structure, facility, installation or combination thereof,” none of which is such a mobile source. The definition of “stationary source” in that rule also mimics that language. There is no federal preemption of DEQ’s authority to regulate portable sources—those stationary sources that are capable of being moved from one fixed operating location to another. DEQ has the authority to regulate portable sources under ORS 468A.040 and offers the flexibility for portable sources to get a single permit usable wherever they set up the source, instead of requiring a new permit every time they want to operate in a different location. DEQ proposes to clarify the language regarding portable sources by describing such sources as “stationary sources that are both portable and permanently located” in the following source categories in OAR chapter 340, division 216, and:*  *Basic Permits:*  *6. Rock, concrete or asphalt crushing stationary sources that are both portable and permanently located*  *General, Simple, Standard Air Contaminant Discharge Permits:*  *8. Asphaltic concrete paving stationary sources that are both portable and permanently located*  *70. Rock, concrete or asphalt crushing stationary sources that are both portable and permanently located 25,000 or more tons/yr. crushed*  *76. Soil remediation stationary sources that are both portable and permanently located*  *DEQ proposes to clarify that permits are required for portable sources in the following source categories:*  *Basic Permits:*  *2. Concrete manufacturing including redimix and CTB stationary sources that are both portable and permanently located, more than 5,000 but less than 25,000 cubic yards per year output.*  *General, Simple, Standard Air Contaminant Discharge Permits:*  *24. Concrete manufacturing including redimix and CTB, stationary sources that are both portable and permanently located, 25,000 or more cubic yards per year output.*  *DEQ proposes to add a catch-all category for portable sources, similar to catch-all in categories 84 and 85:*  *89. All other portable sources not listed herein for which DEQ determines that:*  *(a) An air quality concern exists;*  *(b) The source would emit significant malodorous emissions; or*  *(c) The source would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons per year of direct PM2.5 or PM10 if located in a PM2.5 or PM10 non-attainment or maintenance area, or 10 or more tons per year of any single criteria pollutant if located in any part of the state.*  *To further clarify, DEQ is proposing a definition of “portable.” This definition comes from the California Air Resources Board's "Regulation to Establish a Statewide Portable Equipment Registration Program" (CCR Title 13 Section 2450-2465, September 17, 1997) which is also referenced by EPA:*  *“Portable” means designed and capable of being carried or moved from one location to another. Indicia of portability include, but are not limited to, wheels, skids, carrying handles, dolly, trailer, or platform.*  *DEQ agrees with some of the commenters and changed the proposed rules in response to this comment.* |
| 1.13 | The proposed list of source categories that require an Air Contaminant Discharge Permit creates problems. The source category number 87 on Part B of the list would apply to certain emergency generators and firewater pumps, i.e., those with “emissions, in aggregate, greater than 10 tons for any regulated pollutant based on 100 hours of operation or some other hours of operation specified in a permit.” Comparing emergency unit emissions to an artificially high 100 hours of operation threshold could needlessly subject many sources with inconsequential actual emissions from these units to permitting requirements. DEQ should change the permitting threshold such that permits would only be required for “emergency generators and firewater pumps, the actual emissions from which over a calendar year, in aggregate, are greater than 10 tons for any regulated pollutant.”  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 43, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ has recently required data centers to obtain permits. These data centers are equipped with a large backup generator capacity powered by emergency engines. DEQ required permits under current permit category 85 in division 216, Table 1, Part B, which reads:*  *All Other Sources not listed herein that would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons a year of PM10 if located in a PM10 non-attainment or maintenance area, or 10 or more tons of any single criteria pollutant in any part of the state. DEQ required these facilities to estimate their emissions based on the 100 hours of readiness and testing operation allowed by the NSPS and NESHAP requirements.*  *DEQ was also motivated by the fact that the engines at these facilities were subject to the RICE NSPS and NESHAP requirements, and reasoned that such significant groupings of emergency engines should have permits and be subject to DEQ inspection to insure compliance with the NSPS and NESHAP requirements.*  *Upon reconsideration of this proposed permitting category, DEQ took into consideration the comment on the proposed change to category (uu) in categorically insignificant activities that owners and operators of emergency engines have no reason to operate the engines for the full 100 hours per year specified in the NSPSs and NESHAP. However, DEQ also took into consideration that the real environmental concern over data centers and other sources with large backup generating capacity is their short term emissions. During an actual power outage, many or all of the emergency engines at these sources will be operated, resulting in short term emissions equivalent to the short term emissions of much larger sources. Although DEQ does not regulate the emergency operation of these engines, one of DEQ’s goals is to ensure that emissions are minimized during emergency operation by proper maintenance of the engines.*  *As discussed above in the section on categorically insignificant activities, DEQ determined it is possible to establish a simple aggregate horsepower threshold level for this permitting category, rather than requiring all potentially affected sources to calculate their emissions or obtain a permit for the purpose of being able to specify some number of readiness and testing hours other than 100 hour per year. The approach used to calculate a threshold horsepower level for permitting is similar to the approach used to calculate a threshold horsepower level for categorically insignificant activities.*  *DEQ conservatively estimated the default maximum aggregate horsepower as explained below.*   * *DEQ used the uncontrolled diesel engine nitrogen oxides emission factor of 0.024 lb/hp-hr from AP-42, Table 3.4-1, and* * *DEQ used 28 hours per year of operation for testing and maintenance, determined as described in the preceding section on categorically insignificant activities.*   *Based on the above, the permitting threshold based on the aggregate horsepower rating of the source is:*  *10 ton/yr x 2000 lb/ton / (0.024 lb/hp-hr x 28 hr/yr) = 29,762 hp (rounded to 30,000)*  *DEQ notes that several data centers have already been issued permits. The data center with the least emergency generating capacity has an aggregate rating of 22,500 kilowatts. Assuming 85 percent efficiency converting engine power to electricity, this is equivalent to approximately 35,5001 horsepower. Therefore the data centers already permitted will be required to have a permit under the proposed permitting threshold as well.*  *The final proposed revision to division 216, Table 1, Part B, category 87(a) is:*  *87 Stationary internal combustion engines if:*  *(a) For emergency generators and firewater pumps, the aggregate engine horsepower rating is greater than 30,000 horsepower; or*  *(b) For any individual non-emergency or non-fire pump engine, the engine is subject to 40 CFR part 63, subpart ZZZZ and is rated at 500 horsepower or more, excluding two stroke lean burn engines, engines burning exclusively landfill or digester gas, and four stroke engines located in remote areas; or*  *(c) For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart IIII and:*  *(A) The engine has a displacement of 30 liters or more per cylinder; or*  *(B) The engine has a displacement of less than 30 liters per cylinder and is rated at 500 horsepower or more; or*  *(d) For any individual non-emergency engine, the engine is subject to 40 CFR part 60, subpart JJJJ and is rated at 500 horsepower or more,*  *DEQ agrees with the commenter and changed the proposed rules in response to the comment.*  *22,500 kW/(0.7457 kW/hp x 0.85) = 35,498 hp* |
| 1.14 | Delete the requirement that all sources with an air permit keep records of monitoring data and supporting information for five years. Those revisions are inconsistent with DEQ’s longstanding practice to only require Title V sources to maintain records for five years. If finalized, the proposed revisions would leave each sources currently complying with the two-year retention condition vulnerable to non-compliance with DEQ’s new five-year recordkeeping rule.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ proposed to revise the requirement to keep records for two years to five years because 1,603 out of 2,527 (63%) smaller sources are now subject to area source NESHAPs under 40 CFR Part 63. In the Part 63 Subpart A General Provisions, 40 CFR 63.10 (b)(1) requires the owner or operator of an affected source subject to the provisions of Part 63 to maintain files of all information required by Part 63, and states that the files shall be retained for at least 5 years. The NESHAP recordkeeping requirement results in a dual recordkeeping requirement under the current rules, with a higher probability that affected sources may not realize they must retain certain records for five years. Even the approximately 400 gasoline dispensing facilities that are not required to obtain permits because of NESHAP requirements are still required to keep records for 5 years to show permit exemptions still apply.*  *DEQ determined that requiring all sources to keep records for five years is the simplest way to ensure that sources will comply with the NESHAP recordkeeping requirements. DEQ does not anticipate this requirement will impose a significantly greater burden on sources as sources have told their inspectors that they already keep records for at least five years. The requirement to keep records for five years starts on July 1, 2015 so sources will not be vulnerable to non-compliance.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.15 | DEQ should not remove emergencies as an affirmative defense for non-Title V sources. An emergency could render any source unable to comply with its technology based emission limits. Every source regardless of size bears the burden of proving evidence that an emergency actually occurred. The affirmative defense of emergency is equally applicable and important to all sources, not just large ones.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *EPA has revised its interpretation of the Clean Air Act concerning the issue of affirmative defense provisions in SIPs as a result of a petition filed by the Sierra Club published on February 22, 2013 in the Federal Register (78 FR 12459). EPA has rescinded the SSM Policy element that interpreted the CAA to allow affirmative defense provisions in SIPs. Therefore, DEQ is limiting emergency as an affirmative defense to Title V permitted sources. DEQ is including emergency as one of the criteria to consider in taking enforcement action for non-Title V sources in 340-214-0350(7) Enforcement Action Criteria:*  *(7) Whether the excess emissions event was due to an emergency.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.16 | DEQ should exclude startup, shutdown, and malfunction events from excess emission requirements where currently allowed by federal regulation or permit specific requirements.  DEQ received comments in this category from commenter 56 listed in the *Commenter section* below.  Response:  *DEQ added proposed rule language where federal regulations, such as New Source Performance Standards or National Emission Standards for Hazardous Air Pollutants, exempt emissions in excess of applicable standards from being excess emissions.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.17 | DEQ should clarify the language within the Plant Site Emission Limit rules regarding emissions from categorically insignificant activities. Since division 224 has been expanded to include minor New Source Review as well as major New Source Review, the proposed language would greatly expand the stringency of minor New Source Review in that emissions from categorically insignificant activities are not considered as part of the minor New Source Review program.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the comment. As discussed in the response to comment 6.1, Major New Source Review and Type A State New Source Review are equivalent to the 2001/2015 New Source Review program. To maintain program continuity, DEQ has revised OAR 340-222-0035(5) to read as follows:*  *(5) Plant Site Emission Limits do not include emissions from categorically insignificant activities. Emissions from categorically insignificant activities must be considered when determining Major New Source Review or Type A State New Source Review applicability under OAR 340 division 224.*  *To provide additional clarity with regard to categorically insignificant activities, DEQ also revised OAR 340-222-0041to read as follows:*  *(4) If an applicant wants an annual PSEL at a rate greater than the netting basis, the applicant must, consistent with OAR 340-222-0035:*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.18 | DEQ should not delete OAR 340-222-0041 that for many years has been the basis for determining the applicable requirements where a Plant Site Emission Limit increase was requested. Simply referencing division 224 in the proposed OAR 340-222-0041(4) leaves tremendous confusion on the applicability of division 224.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ’s permitting program has always consisted of two parts: major New Source Review and “minor” New Source Review. The requirements for the major New Source Review program have resided in division 224. In nonattainment areas and maintenance areas, DEQ’s major New Source Review program applied to sources that were defined as major if their emissions were greater than or equal to the significant emission rate. In attainment areas, major sources were defined at the 100 or 250 tons per year level. Sources whose emissions are below these major source thresholds are considered “minor” sources. DEQ permits minor sources under the following programs:*   * *Air Contaminant Discharge Permit* * *Notice of Construction and Approval of Plans* * *Registration*   *Because DEQ is proposing changes to the New Source Review program that include designation of sustainment and reattainment areas, DEQ decided to completely separate the minor New Source Review program from the major New Source Review program. DEQ cannot apply these area designations along with their requirements to federal major sources (100 and 250 tons per year sources) because of EPA restrictions. Therefore, a separate program for minor sources would utilize these area designations and also house the minor New Source Review program, proposed to be renamed “State New Source Review,” in one area of the rules.*  *Since requested increases in the Plant Site Emission Limits greater than the significant emission rate for other than New Source Review purposes could require a net air quality benefit analysis, offsets, computer modeling, and refer the source to divisions 224 and 225 for compliance, DEQ decided to make this part of the State New Source Review program. DEQ has included additional clarification in OAR 340-222-0041(4) that directs sources to OAR 340-224-0010, the applicability section of New Source Review. The applicability section in division 224 has also been clarified.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.19 | DEQ is proposing to significantly increase the stringency of division 224 by deleting the minor New Source Review provisions and using OAR 340-222-0041(4) as the “gate keeper” provision to OAR 340-224-0010. If OAR 340-222-0041(4) is supposed to be the gatekeeper to State New Source Review, OAR 340-224-0010(2) serves no function.  DEQ’s language is very confusing and internally inconsistent. DEQ should not revise division 224 this time and instead do so in a separate future rulemaking. If DEQ does not wish to leave division 224 changes to another rulemaking, the rules should be clear that a source does not consult division 224 unless it is requesting a Plant Site Emission Limit that exceeds the netting basis by a significant emission rate or more.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with part of the comments and has revised OAR 340-222-0041(4) to restore subsections (a) and (b), which were formerly OAR 340-222-0041(3)(a) and (b). This change effectively means that the new rules have the same structure as the old rules.*  *Commenters state with regard to OAR 340-224-0010(2) that “As written, this means that by requesting to increase a nitrogen oxides Plant Site Emission Limit to 40 tons per year or more in a nonattainment area--regardless of the source’s netting basis--that source will trigger nonattainment State New Source Review and be required to provide offsets and demonstrate a net air quality benefit.” DEQ has reviewed OAR 340-224-0010(1) and (2) and has revised the rule language to clarify the applicability. DEQ also notes that a NEW source with emissions over the SER is subject to NSR since its netting basis is zero; in this case the qualifier “over the netting basis” has been omitted.*  *DEQ’s intent with these rule revisions is essentially to maintain the overall new source review program as it was from 2001 through early 2015, with the following exceptions:*   * *rules have been added for the new sustainment and reattainment areas; and* * *offset and net air quality benefit requirements have been revised and in some cases are more stringent.*   *On the whole, however, DEQ did not intend to dramatically increase the stringency of the new source review program.*  *In consideration of the comment above, DEQ reviewed the applicability requirements in OAR 340-224-0010(2) and has revised to clarify the applicability of State New Source Review. In addition, both OAR 340-224-0010(1) and (2) follow the structure of OAR 340-224-0010(1) and (2) in the 2001/2015 New Source Review applicability rules in OAR 340 division 224.*   |  |  | | --- | --- | | ***OAR 340-224-0010(2) rule language*** | ***Review/discussion of rule*** | | *(a) In a nonattainment, reattainment or maintenance area:*  *(A) Construction of a new source that will have emissions of the nonattainment, reattainment or maintenance pollutant equal to or greater than the SER; or*  *(B) Major modification for the nonattainment, reattainment or maintenance pollutant, at an existing source that will have emissions of the nonattainment, reattainment or maintenance pollutant equal to greater than the SER over the netting basis.* | *A new source has no netting basis, therefore any emissions over the SER mean that the increase over the netting basis is over the SER. This triggers Type A State New Source Review (formerly 2001/2015 New Source Review)*  *A major modification triggers Type A State New Source Review (formerly 2001/2015 New Source Review).* | | *(b) In a nonattainment, reattainment or maintenance area, increasing emissions at an existing source to an amount equal to or greater than the SER over the netting basis but not subject to subsection (a).* | *If emissions are equal to or greater than the SER over the netting basis, then they are also equal to or greater than the SER. Not subject to (a) means no major modification. This triggers Type B State New Source Review (formerly 2001/2015 Plant Site Emission Limit rule).* | | *(c) In an attainment, unclassified or sustainment area:*  *(A) Construction of a new source that will have emissions of a regulated pollutant equal to or greater than the SER; or*  *(B) Increasing emissions of a regulated pollutant to an amount that is equal to or greater than the SER over the netting basis.* | *Provided that the source is not a federal major source, this triggers Type B State New Source Review (formerly 2001/2015 Plant Site Emission Limit rule).*  *May or may not be a major modification, but not subject to Major New Source Review unless source is a federal major source. This triggers Type B State New Source Review (formerly 2001/2015 Plant Site Emission Limit rule).* |   *DEQ determined that the changes to OAR 340-222-0041 and 340-224-0010 maintain the 2001/2015 structure of OAR 340-222-0041 and 340-224-0010. DEQ therefore does not agree to pull back the proposed changes and address them in a future rulemaking.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.20 | OAR 340-222-0041(4) specifies that federal major source that requests a Plant Site Emission Limit in excess of the netting basis plus SER but does not trigger Prevention of Significant Deterioration, it must demonstrate compliance with National Ambient Air Quality Standards, Prevention of Significant Deterioration increment and AQRVs. This should not be triggered where a source is major for a non-greenhouse gases pollutant and the sole increase sought is in the greenhouse gas Plant Site Emission Limit. These requirements should only apply to the pollutant for which the increased Plant Site Emission Limit is sought.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.21 | The current Plant Site Emission Limit rule should be revised so that minor sources are not required to demonstrate a net air quality benefit as a condition to increase their Plant Site Emission Limit by a significant emission rate or more above netting basis. There is no need to create a whole new section of the regulations to accomplish this relatively straightforward improvement. We support retaining the Plant Site Emission Limit rule as it currently is structured with this improvement.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *The requirement to demonstrate a net air quality benefit is not new. The existing OAR 340-221-0041(3) is stated below; underlined text is the new text being proposed in this ruelmaking:*  *(3) If an applicant wants an annual PSEL at a rate greater than the netting basis, the applicant must:*  *(a) Demonstrate that the requested increase over the netting basis is less than the SER; or*  *(b) For increases equal to or greater than the SER over the netting basis, but not subject to New Source Review (OAR 340 division 224):*  *(A) If located within, or creating a significant air quality impact as defined in OAR 340-200-0020 upon, an area designated as nonattainment in OAR 340-204-0030, the applicant must obtain offsets and demonstrate a net air quality benefit in accordance with 340-225-0090.*  *(B) If located within, or creating a significant air quality impact as defined in OAR 340-200-0020 upon, an area designated as maintenance in 340-204-0040, the applicant must*  *(i) Obtain offsets and demonstrate a net air quality benefit in accordance with OAR 340-225-0090;*  *(ii) Obtain an allocation from an available growth allowance in accordance with the applicable maintenance plan; or*  *(iii) Demonstrate compliance with the air quality impact levels in OAR 340-224-0060(2)(c) or (2)(d), whichever applies to the maintenance area, by conducting an air quality analysis in accordance with 340-225-0045.*  *Currently, minor or major sources are required to demonstrate net air quality benefit for all requested increases in the Plant Site Emission Limit over the netting basis by more than the significant emission rate when located in or impacting nonattainment and maintenance areas. In creating the State New Source review program, DEQ has kept this requirement and proposes revisions to the demonstration procedure.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.22 | DEQ is proposing a fundamental shift in Plant Site Emission Limit compliance by saying that regardless of the Plant Site Emission Limit compliance requirements specified in the permit, emissions may be calculated using other procedures. This proposed approach runs absolutely counter to decades of DEQ guidance saying that Plant Site Emission Limit compliance will always be determined by the methodology stated in the permit and should be removed from the final rule language.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *The Oregon State Implementation Plan has long contained the credible evidence rule:.*  ***340-214-0120***  ***Enforcement***  *Notwithstanding any other provisions contained in any applicable requirement, any credible evidence may be used for the purpose of establishing whether a person has violated or is in violation of any such applicable requirements.*  *This rule is a required element of all State Implementation Plans as stated in 40 CFR 51.212(c):*  *§ 51.212 Testing, inspection, enforcement, and complaints.*  *The plan must provide for—*  *(a) Periodic testing and inspection of stationary sources; and*  *(b) Establishment of a system for detecting violations of any rules and regulations through the enforcement of appropriate visible emission limitations and for investigating complaints.*  *(c) Enforceable test methods for each emission limit specified in the plan. For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in this part, the plan must not preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed. As an enforceable method, States may use:*  *(1) Any of the appropriate methods in appendix M to this part, Recommended Test Methods for State Implementation Plans; or*  *(2) An alternative method following review and approval of that method by the Administrator; or*  *(3) Any appropriate method in appendix A to 40 CFR part 60.*  *This rule applies to all applicable requirements, which includes Plant Site Emission Limit compliance. By adding the proposed language in OAR 340-222-0051(4) and 340-222-0080(6) saying that regardless of the Plant Site Emission Limit compliance requirements specified in the permit, emissions may be calculated using other procedures, DEQ is clarifying that credible evidence allows other methods of calculating actual emissions which is not a change in policy.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.23 | The use of “actual emissions” based upon a unit’s actual hours of production rates can be very burdensome for certain emissions units. DEQ should reword the proposed rule language in OAR 340-222-0051(4) to say “reasonable estimate.”  (4) Regardless of the PSEL compliance requirements specified in a permit, actual emissions from a source or part of a source may be calculated for any given 12 consecutive month period using data that is considered valid and representative of the source’s or part of a source’s emissions. Actual emissions must be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.  DEQ received comments in this category from commenter 58 listed in the *Commenter section* below.  Response:  *DEQ requires sources to keep records of process parameters such as production rates and fuel usage, when reporting compliance with the Plant Site Emission Limits. The proposed rule language is not a new requirement.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.24 | The wording in OAR 340-225-0050(3) creates an unintentional conflict with OAR 340-225-0050(1). The intent of OAR 340-225-0050 is that a source triggering the modeling requirements must demonstrate that its impacts are below the significant impact levels and also demonstrate that those significant impact levels are adequately protective. If this showing cannot be made, then the source must perform a competing source analysis. However, OAR 340-225-0050(3) then states that the source must demonstrate that it will not cause or contribute to an AAQS or increment exceedance. Either OAR 340-225-0050(3) duplicates what is stated in 340-225-0050(1) or it is imposing an entirely different requirement. OAR 340-225 -0050(3) must be read to require an additional evaluation beyond the evaluation in 340-225-0050(1), strongly suggesting a competing source analysis. This is not necessary where a source meets its obligations under OAR 340-225-0050(1), so DEQ should delete the proposed language 340-225-0050(3).  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *The rule language added in OAR 340-225-0050(3) was purposely added because the D.C. Circuit Court of Appeals vacated and remanded EPA’s regulations at 40 C.F.R. §§ 51.166(k)(2) and 52.21(k)(2) in January 2013 in Sierra Club v. EPA. (705 F.3d 458 (D.C. Cir. 2013)) The court stated, “EPA asserts that [because] it did not intend to automatically exempt a proposed source from the requirements of the Act without affording the permitting authorities discretion in applying the significant impact levels, it requests that we vacate and remand the regulatory text promulgated in the rule at 40 C.F.R. §§ 51.166(k)(2) and 52.21(k)(2).” Sierra Club argued that proposed sources in an area on the verge of violating the National Ambient Air Quality Standards or an increment could violate the standards or an increment even if the resulting emission levels would fall below the SIL.*  *Upon further examination, the language added to OAR 340-225-0050(1)(b) contains the requirements for the additional evaluation beyond the evaluation in subsection (1)(a). The proposed language added in section (3) was not meant to suggest a competing source analysis so DEQ has removed the proposed language in section (3) and relies on the language in subsection (1)(b) instead.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.25 | OAR 340-225-0070(1) states that sources that are not “federal major sources are exempt from the” AQRV rules. DEQ should develop minimum screening criteria for projects that are not “federal major sources” to determine whether projects should be exempt from all AQRV protection standards and National Scenic Area protection standards.  DEQ received comments in this category from commenter 24 listed in the *Commenter section* below.  Response:  *The exemption for non-federal majors is an existing rule so these sources have never been required to do an AQRV analysis. This change would require AQRV analysis for potentially many smaller sources that in general are not considered large enough to affect Class I areas. In addition, this rule currently encourages sources to analyze impacts to the Columbia River Gorge, so is indirectly seeking to increase the scrutiny of all sources (large and small) that could impact the Gorge. Any changes should be part of a broader review of the Columbia River Gorge Air Study and Strategy because the comment requests significant policy changes. The Gorge Commission, Southwest Clean Air Agency and DEQ, authors of the strategy, should all be included in this discussion.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.26 | The DEQ’s proposed revisions would modify the air quality rules governing projects that would affect air quality related values in the Columbia River Gorge. DEQ should use this opportunity to provide greater clarity on how those rules should be implemented to protect air quality in the Gorge and require visibility modeling for the National Scenic Area. To ensure protection of the Columbia River Gorge National Scenic Area consistent with the National Scenic Area Act, DEQ should retain “significant impairment” as a threshold for impacts to the National Scenic Area and add language tying that threshold to adverse impacts as defined by the National Scenic Area Act.  DEQ should not designate Columbia River Gorge Scenic Area as a federal Class I area by requiring sources to assess potential visibility and deposition impacts on the scenic area. The scenic area is not a Class I area with pristine air quality and is not managed as such. Under the proposed rule, sources will be required to complete very expensive Class I-style evaluation of impacts to the scenic area since DEQ could deny the air permit if it finds “significant impairment.”  DEQ received comments in this category from commenters 2, 3, 4, 7, 13, 20, 24, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *Based on past experience, all sources that have been asked to model the Gorge have done so voluntarily. DEQ proposed making the analyses mandatory to ensure that sources would be required to do it, not to apply the Class I area criteria to scenic areas. DEQ has never applied the “significant impairment” criteria for Class I areas on areas other than Class I areas. By making this analysis mandatory, DEQ intended to use the analysis for informational purposes only, as it has done in the past.*  *The existing rule language says:*  *“DEQ also encourages the owner or operator to demonstrate that these same emission increases or decreases will not cause or contribute to significant impairment of visibility on the Columbia River Gorge National Scenic Area (if it is affected by the source).”*  *DEQ applies the ‘significant impairment’ language in the rule as its own standard and in a reasonable and consistent manner. DEQ did not, and does not, intend for that threshold to be equated with the Scenic Act’s “adversely affect” standard. In order to avoid confusion, DEQ proposed to remove the “significant impairment” language from the requirement for the visibility analysis on the Gorge since significant impairment is only defined for Class I areas.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.27 | DEQ should:   * delete draft OAR 340-225-0070(4)(d) and retain the criteria for significant impairment in OAR 340-225-0070(6)(b) and if necessary, cross-reference the modeling requirements in OAR 340-225-0070(4) and(5) * revise the language in OAR 340-225-0070(6)(b) to require applicants to base their analysis on FLAG guidance * retain the proposed revision requiring deposition modeling for impacts to the National Scenic Area * add language addressing significant impairment and incorporating National Scenic Area standards for adverse impacts * add a requirement for visibility monitoring of impacts to the National Scenic Area and explicitly reference the National Scenic Area Act, Management Plan, and Air Quality Strategy standards * revise the additional impacts analysis to ensure consistency with existing requirements for “continued improvement” of air quality in the National Scenic Area and revise the section to clarify relationship to the application requirements in OAR 340-225-0030(4) * DEQ should provide examples of “other AQRVs” identified in the FLAG Report, including AQRVs found in Class II areas * should incorporate National Scenic Area standards for adverse impacts, including standards from the Management Plan and thresholds for individual significant impacts identified in the Air Quality Strategy * clarify the definition to include all subsequent revisions and updates to the FLAG guidance * designate the Mark O. Hatfield Wilderness as a Class I area subject to the Prevention of Significant Deterioration standards. The Clean Air Act expressly authorizes that "a State may redesignate such areas as it deems appropriate as class one areas[.]" Pursuant to this authority, the state should provide additional protection to the Mark O. Hatfield Wilderness.   DEQ received comments in this category from commenter 24 listed in the *Commenter section* below.  Response:  *At this time, DEQ proposes no substantive changes to OAR 340-225-0070 in response to this comment. Any changes should be part of a broader review of the Columbia River Gorge Air Study and Strategy because the comment requests significant policy changes. The Gorge Commission, Southwest Clean Air Agency and DEQ, authors of the strategy, should all be included in this discussion.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.28 | The proposed revision to the hardboard rule reads “Specific operating temperatures lower than 1500° F. may be approved by DEQ using 40 CFR Part 63, Subpart DDDD, NESHAP for Plywood and Composite Wood Products.” This language does not make sense. If the intent is to require the procedures of 40 CFR 63.2262, then DEQ should revise the rule to say that.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.29 | DEQ is proposing that particulate compliance testing on biomass boilers be performed using only DEQ Method 5. By specifying only this test method , DEQ may be too limiting not allowing the use of an alternative test method, if needed.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.30 | OAR 340-228-0120 says that no person must sell coal greater than 1.0 percent sulfur by weight (OAR 340-228-0120(1)) or 0.3 percent sulfur (OAR 340-228-0120(2)). We believe that DEQ has intended to say “shall,” rather than “must.”  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter and changed the rule language back to “may” in response to this comment.* |
| 1.31 | DEQ proposes to expand the requirements applicable to marine loading of gasoline to include the marine loading of any volatile organic compounds liquid with a true vapor pressure greater than 10.5 kPa (1.52 psia) in the Portland Air Quality Maintenance Area. Existing air pollution control equipment for gasoline vapors cannot be applied to vapors from these other liquids.  There does not appear to be any basis for removing the current flexibility that allows a loading facility to request written approval to use an alternative monitoring method.  DEQ should address this rule through a separate rulemaking and include a detailed technical and economic analysis.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48, 57 and 58 listed in the *Commenter section* below.  Response:  *The Portland Air Quality Maintenance Area is a former nonattainment area for ozone. The intent of the marine loading rule is to reduce emissions of volatile organic compounds, which are ozone precursors, to help ensure that the Portland area will not revert to nonattainment for ozone. DEQ understands that there are volatile organic liquids with vapor pressures that exceed the vapor pressure of gasoline that are or may in the future be handled by terminals in the Portland Air Quality Maintenance Area; DEQ wants to address these liquids in a proactive way by revising the rule.*  *However, based on the comments received, DEQ reconsidered the proposed changes. DEQ realized the original proposal was too stringent and would require control of emissions from liquids with very low vapor pressures. DEQ determined instead that it is appropriate to require control of emissions for liquids that have a Reid vapor pressure that is the same as or greater than the Reid vapor pressure of gasoline, which is specified as 4.0 psi in the current rules.*  *DEQ also understands that existing emission control systems cannot handle the emissions from certain high vapor pressure liquids and would have to be replaced, most likely with thermal oxidizers, in order to control emissions from such liquids. Affected facilities need time to modify their emission control systems, and if necessary, to permit them.*  *Based on the above considerations, DEQ has revised the proposed rule as follows:*  *The rule would continue to apply to gasoline; and*  *Beginning July 1, 2016, the rule would apply to gasoline and heated liquids; and*  *Beginning July 1, 2018, the rule would apply to gasoline and all other organic liquids with an RVP of 4.0 psi or more.*  *DEQ agrees with some of the comments and changed the proposed rules in response to the comments.* |
| 1.32 | The proposed changes to the Loading Gasoline or Volatile Organic Compound Liquids onto Marine Tank Vessels rules will place businesses and terminals located in the Portland region at a competitive financial and potentially operational disadvantage when compared to those businesses located in other parts of the state. The limits should be applied statewide. If the statewide applicability cannot be reasonably accomplished, the loading emission control requirements for gasoline and volatile organic compounds liquids should form the baseline for any typically achievable control technology determinations for controls at other facilities anywhere in the state.  DEQ received comments in this category from commenter 46 listed in the *Commenter section* below.  Response:  *DEQ understands that the proposed rule can place terminals in the Portland area at a competitive disadvantage compared to similar businesses in other parts of the state. However, this rule change was proposed as a measure to help ensure continued attainment of the ozone ambient air quality standards in the Portland area. Portland is currently in attainment with the ozone standards, but is a former nonattainment area for ozone. In addition, the U.S. Environmental Protection Agency has proposed to lower the ozone standards. While the Portland area is expected to be remain in attainment with the new standards, ozone levels in the area will be closer to the standards, putting the area at greater risk of exceeding the standards.*  *Other areas in the state either do not appear to have the same level of risk with respect to nonattainment of the ozone standards, and therefore DEQ does not have a basis at this time for imposing this requirement in all areas of the state. In addition, DEQ did not propose to extend this requirement to other areas in the state, and to do so without additional public notice would deprive potentially affected areas and facilities from the opportunity to comment on the proposal.*  *DEQ therefore disagrees with the comment and has not changed the proposed rules in response to the comment.* |
| 1.33 | The definition of a volatile organic compound liquid is unclear and could be interpreted to apply to liquefied natural gas based on transport pressure. OAR 340-232-0110 is a volatile organic compounds control rule for the Portland AQMA and should not apply to liquefied natural gas because liquefied natural gas is mostly methane, a non-volatile organic compound.  DEQ received comments in this category from commenter 46 listed in the *Commenter section* below.  Response:  *DEQ agrees that this rule should not apply to organic liquids that are stored in pressurized tanks, such as but not limited to liquefied natural gas (LNG), liquefied petroleum gas (LPG), butane or propane, and has excluded organic liquids that are stored in pressurized tanks.*  *DEQ agrees with the comment and changed the proposed rules in response to the comment.* |
| 1.34 | The increased emissions that result from vapor destruction equipment used to control fugitive emissions from LNG, LPG, and propane loading outweigh the limited benefits of volatile organic compounds emission reductions by creating criteria pollutants, including volatile organic compounds, carbon monoxide, nitrogen oxides, and particulate matter; as well as air toxics such as formaldehyde and benzene.  DEQ received comments in this category from commenter 46 listed in the *Commenter section* below.  Response:  *See DEQ’s response to 1.33.* |
| 1.35 | DEQ should clarify that the following divisions and/or rules apply in Lane County upon adoption by EQC since they represent a level of greater stringency and/or are necessary for LRAPA to maintain rules that are consistent with state and federal regulations.   1. Division 224 – New Source Review 2. Division 225 – Air Quality Analysis Requirements 3. OAR 340-208-0110 - Visible Air Contaminant Limitations: LRAPA requests this rule be effective in Lane County since the opacity limitation is numerically more stringent than the existing LRAPA rule (40% vs. 20%). LRAPA requests this rule apply only to wood/biomass-fired boilers in Lane County; LRAPA needs additional time to evaluate the proposed revisions to the visible emission monitoring method as it applies to sources other than wood/biomass-fired boilers. 4. OAR 340-226-0210 - Particulate Emission Limitations for Sources Other Than Fuel Burning, and Refuse Burning Equipment and Fugitive Emissions 5. OAR 340-228-0210 – Grain Loading Standards for Fuel Burning Equipment 6. Division 200 – Definition of “Categorically Insignificant Activity” 7. OAR 340-222-0090 – Combining and Splitting Sources 8. OAR 340-208-0210(2)(a), (b), and (3) – Visible Emission Monitoring for Fugitive Emissions 9. OAR 340-214-0114(5) – Recordkeeping for 5 years   All other existing LRAPA rules are at least as strict as the proposed DEQ rules and/or can be proposed by LRAPA for adoption at a later time.  In this rule revision package, DEQ has revised the language in the applicability provisions of OAR divisions 200, 202, 208, 210, 212, 214, 216, 218, 220, 222, 224, 225, 226, 228, 234, 236, 268 with respect to when these divisions apply within the jurisdiction of Lane Regional Air Pollution Authority. The comparison involves a division or chapter of LRAPA’s rules with the particular DEQ division, rather than a rule by rule comparison. The proposed language is not clear if LRAPA’s rules are at least as strict as the particular OAR division, the LRAPA rules apply in lieu of the OAR division or in addition to the OAR division. Given the importance of knowing which rules apply within LRAPA’s jurisdiction prior to action on a SIP revision for DEQ or LRAPA, DEQ will need to provide clarifying documentation, including an attorney opinion before action can be taken on such SIP revisions.  DEQ received comments in this category from commenters 31 and 52 listed in the *Commenter section* below.  Response:  *DEQ added the following language to OAR 340-200-0010 Purpose and Application and changed the jurisdiction rule language in OAR 340 divisions 202, 208, 210, 212, 214, 216, 218, 220, 222, 224, 225, 226, 228, 234, 236, and 268.*  *340-200-0010(3) DEQ administers divisions 200 through 268 in all areas of the State of Oregon except when the EQC has designated LRAPA to administer rules within its areas of jurisdiction. Subject to and when provided in divisions 200 through 268, LRAPA is authorized by the EQC as the agency to implement these state rules, and must apply the requirements and procedures contained in these state rules, within its area of jurisdiction. LRAPA may apply any LRAPA rule in lieu of a state rule(s) provided that the LRAPA rule is at least as strict as the state rule(s), LRAPA has submitted the rule to the EQC for its approval, and the EQC has not disapproved the rule.*  *Applicability and Jurisdiction:*  *(X) Subject to the requirements in this division and OAR 340-200-0010(3), LRAPA is designated by the EQC to implement the rules in this division within its area of jurisdiction.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |

| **Summary of Comments and DEQ Responses** | |
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| Category 1: Clarify and update air quality rules | |
| 1.36 | DEQ should provide additional information and analysis before removing state regulations for neutral sulfite semi-chemical pulp mills, sulfite pulp mills, primary aluminum plants, laterite ore production of ferronickel, and charcoal producing plants. DEQ should provide a detailed analysis showing that existing rules are not more stringent than federal rules.  Second, all of the regulations that DEQ is proposing to delete do not have thresholds and apply to all sources within their respective industrial categories. Both the triggering of New Source Review/Prevention of Significant Deterioration and the application of Maximum Achievable Control Technology have threshold, triggering values; below those levels, these programs do not apply. It is therefore possible, or even likely, that new source in one of the industrial categories could be located in Oregon and not subject to these federal programs.  Third, while New Source Performance Standard regulations generally do not have thresholds on the size of the source, some of the industrial categories do not have New Source Performance Standard regulations, or Oregon’s regulations appear to be more stringent than the federal New Source Performance Standards.  DEQ received comments in this category from commenter 40 listed in the *Commenter section* below.  Response:  *DEQ is proposing to repeal rules for the following sources, none of which are currently located in Oregon:*   |  |  |  | | --- | --- | --- | | ***Source Category*** | ***OAR*** | ***Adoption Date*** | | *Primary Aluminum Standards* | *340-236-0100-0150* | *1973* | | *Laterite Ore Production of Ferronickel* | *340-236-0200-0230* | *1972* | | *Neutral Sulfite Semi-Chemical (NSSC) Pulp Mills* | *340-234-0300-0360* | *1990* | | *Sulfite Pulp Mills* | *340-234-0400-0430* | *1971* | | *Charcoal Producing Plants* | *340-240-0170* | *1978* |   *As described below in this response, DEQ has undertaken a detailed analysis and concludes that the repeal of the rules listed above will not result in a weakening of DEQ’s air quality permitting requirements. DEQ agrees with the commenter that all of the regulations proposed for repeal do not have thresholds and apply to all sources within their respective industrial categories. DEQ also agrees that applicability of New Source Review/Prevention of Significant Deterioration and Maximum Achievable Control Technology have threshold triggering values; below those levels, these programs do not apply. The table below shows the Plant Site Emission Limits in tons per year for the facilities that have shut down in Oregon in the categories of the rules DEQ is proposing to repeal. Assuming new facilities would have similar Plant Site Emission Limits; the requirements of New Source Review/Prevention of Significant Deterioration would apply to every new facility in those industrial categories because their emissions are greater than the major source threshold. Any new facility in any of these industrial categories would also trigger Maximum Achievable Control Technology for hazardous air pollutants these sources would be major hazardous air pollutant sources, except for Royal Oak. Since there is no Maximum Achievable Control Technology standard for charcoal production, the fact that Royal Oak was not a major source of hazardous air pollutants has no consequences.*   | ***Applicability of New Source Review/Prevention of Significant Deterioration to Industrial Categories of Proposed Repealed Rules*** | | | | --- | --- | --- | | ***Source*** | ***Emissions*** | ***Major Source Threshold*** | | *Reynolds Metals* | *CO – 13,138 tpy*  *NOx - 59 tpy*  *PM – 956 tpy*  *PM10 – 956 tpy*  *SO2 – 4,701 tpy*  *VOC - 86 tpy*  *F – 171 tpy*  *HAPs – 1,796* | *100 tpy of any regulated pollutant* | | *Northwest Aluminum* | *CO – 15,414 tpy*  *NOx - 63 tpy*  *PM – 421 tpy*  *PM10 – 421 tpy*  *SO2 - 484 tpy*  *VOC - 209 tpy*  *F – 51 tpy*  *HAPs – 490 tpy* | *100 tpy of any regulated pollutant* | | *Weyerhaeuser North Bend* | *CO – 1,282 tpy*  *NOx - 287 tpy*  *PM – 550 tpy*  *PM10 – 550 tpy*  *SO2 - 173 tpy*  *VOC - 297 tpy*  *HAPs – 143 tpy* | *250 tpy of any regulated pollutant* | | *Glenbrook Nickel* | *CO – 3,416 tpy*  *NOx - 3,684 tpy*  *PM – 1,574 tpy*  *PM10 – 1,574 tpy*  *SO2 - 534 tpy*  *VOC - 165 tpy*  *HAPs – 43 tpy* | *250 tpy of any regulated pollutant* | | *Royal Oak* | *CO – 27 tpy*  *NOx - 182 tpy*  *PM – 185 tpy*  *PM10 – 185 tpy*  *SO2 - NA*  *VOC – 38 tpy*  *HAPs - < 25 tpy* | *100 tpy of any regulated pollutant* |   *Congress established the New Source Review permitting program as part of the 1977 Clean Air Act Amendments. New Source Review is a preconstruction permitting program that serves two important purposes:*   * *First, it ensures that air quality is not significantly degraded from the addition of new and modified factories, industrial boilers and power plants. In areas with unhealthy air, New Source Review assures that new emissions do not slow progress toward cleaner air. In areas with clean air, especially pristine areas like national parks, New Source Review assures that new emissions do not significantly worsen air quality.* * *Second, the New Source Review program assures people that any large new or modified industrial source in their neighborhoods will be as clean as possible, and that advances in pollution control occur concurrently with industrial expansion.*   *When a new facility triggers New Source Review, one component of the application process is to do a control technology evaluation. The owner/operator of the proposed facility must review similar facilities to see what the latest control technologies are being used and determine if that control technology can be used at their facility. If the facility is located in a nonattainment area, Lowest Achievable Emission Rate is applied as the most stringent emission limitation derived from either of the following:*   * *The most stringent emission limitation contained in the implementation plan of any State for such class or category of source; or* * *The most stringent emission limitation achieved in practice by such class or category of source.*   *If the facility is located in an attainment area, Best Available Control Technology is an emissions limitation which is based on the maximum degree of control that can be achieved. It is a case-by-case decision that considers energy, environmental and economic impact. Best Available Control Technology can be add-on control equipment or modification of the production processes or methods.*  *A review of EPA’s Reasonably Achievable Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse was performed to identify the corresponding emission limits that have been established on any new primary aluminum plant, sulfite pulp mill, neutral sulfite semi-chemical pulp mill, ferronickel smelter, and charcoal manufacturing facility. While a direct emission limit comparison is not possible in every case due to the unique terms of some of the limits, these facilities were qualitatively determined to have emissions that are lower than the current DEQ standards, most of which were adopted in the 1970s. Control technology has improved dramatically in 40 years. Additionally, Best Available Control Technology and/or Lowest Achievable Emission Rate must be at least as stringent as any New Source Performance Standards or Maximum Achievable Control Technology. Results from the clearinghouse are included below in the following tables for each facility type.*  *In the tables below, DEQ has also identified specific requirements, both New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, which would apply to new sources in these industrial categories. The New Source Performance Standards for these industrial source categories do not have thresholds but are triggered by the date a facility commences construction or modification. The National Emission Standards for Hazardous Air Pollutants for these source categories apply to major sources of hazardous air pollutants and would apply to all of the following facilities in the industrial categories except charcoal manufacturing for which there is no corresponding standard.*   | ***NSSC OAR*** | | ***CFR – NSPS Subpart BBa*** | | ***CFR – NESHAP Subpart MM*** | | | --- | --- | --- | --- | --- | --- | | ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** | | ***Neutral Sulfite Semi-Chemical Pulp Mills***  ***OAR 340-234-0300***  *Existing and new sources*  *Spent Liquor Incinerator* | *Particulate matter 7.2 lbs/ton black liquor solids as a daily arithmetic average*  *35 % opacity*  *SO2 10 ppm*  *TRS 10 ppm and 0.14 lb/ton black liquor solids* | ***Subpart BBa—Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013***  *new or reconstructed recovery furnace where kraft pulping combined with neutral sulfite semi-chemical pulping* | *particulate matter 0.015 gr/dscf*  *straight kraft recovery furnace TRS 5 ppm*  *cross recovery furnace TRS 25 ppm*  *20% opacity with ESP* | ***Subpart MM—National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semi chemical Pulp Mills*** *(04/15/98)* | *PM 0.020 gr/dscf* | | *Acid Absorption Tower.* | *SO2 emissions 20 ppm* |  |  |  |  | | *All NSSC sources, except spent liquor incinerators* | *20% opacity* |  |  |  |  |   *The table above compares DEQ’s Neutral Sulfite Semi-Chemical (NSSC) Pulp Mill rules adopted in 1990 with EPA’s New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, rules which would apply to any new neutral sulfite semi-chemical pulp mill in the state. As can be seen, the DEQ particulate matter for spent liquor incinerators is 7.2 pounds per ton of black liquor solids. The New Source Performance Standard and National Emission Standards for Hazardous Air Pollutants are much more stringent and require a 0.015 gr/dscf and a 0.020 gr/dscf limit, respectively, which calculate to 0.46 and 0.61 pounds per ton of black liquor solids using source test data from the Weyerhaeuser Company spent liquor incinerator. The New Source Performance Standard opacity limit from a cross recovery furnace (20%) is lower than the DEQ limit (35%). SO2 emissions are not regulated by the New Source Performance Standard or National Emission Standards for Hazardous Air Pollutants.*  *The DEQ total reduced sulfur emission limit for spent liquor incinerators is 10 ppm. The New Source Performance Standard total reduced sulfur limit from a straight kraft recovery furnace is 5 ppm and from cross recovery furnace is 25 ppm. When EPA promulgated 40 CFR part 60 subpart BB—Standards of Performance for Kraft Pulp Mills in February of 1978, the cross recovery total reduced sulfur limits were included. The data collected from EPA’s Information Collection Request indicated that there were no cross recovery furnaces subject to Subpart BB, so EPA was not provided any total reduced sulfur emissions data to analyze for these units. The reasons used in the original rule (and the ones referenced in the docket for Subpart BBa) for higher total reduced sulfur limits for cross recovery furnaces are as follows:*   * *The sulfur content of semi-chemical liquor is higher than traditional kraft liquor;* * *The heat content of the liquor is lower because it contains less organic material that kraft pulping liquor (higher pulping yields); and,* * *The heavier sulfur loading and lower operating temperature puts a restriction on the amount of excess oxygen available to oxidize sulfur compounds.*   *The only cross recovery furnace in Oregon is at Georgia Pacific in Toledo. Georgia Pacific staff indicated their semi-chemical liquor has the same sulfur content of their kraft liquor so there would be no difference in total reduced sulfur emissions from their cross recovery furnace in relation to a straight kraft recovery furnace. Therefore, the total reduced sulfur limit from a straight kraft recovery furnace regulated by the New Source Performance Standard (5 ppm) is more stringent than DEQ’s limit (10 ppm).*  *DEQ did not find any neutral sulfite semi-chemical pulp mills in the Reasonably Achievable Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse but the control technology would probably be similar to other types of pulp mills. Therefore, repealing the Neutral Sulfite Semi-Chemical (NSSC) Pulp Mill rules will not weaken DEQ’s air permitting program.* |

| ***Primary Aluminum Plant Rule Comparison*** | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- |
| ***Primary Aluminum OAR*** | | ***CFR – NSPS Subpart S*** | | ***CFR – NESHAP Subpart LL*** | | ***Prevention of Significant Deterioration*** | |
| ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** |
| ***Primary Aluminum Standards***  ***OAR 340-236-0110 Applicability***  *all sources at each primary aluminum plant constructed after January 1, 1973* | *Total fluoride 1.2 pounds per ton of aluminum (monthly);*  *1.0 pound per ton of aluminum (annual); and*  *12.5 tons per month from any aluminum plant*  *particulate matter 7.0 pounds per ton of aluminum (monthly); and*  *5.0 pounds per ton of aluminum (annual)* | ***Subpart S—Primary Aluminum Reduction Plants***  *commences construction or modification after October 23, 1974* | ***§ 60.192***  *total fluorides 2.0 lb/ton of aluminum (Soderberg)*  *1.9 lb/ton of aluminum (prebake)*  *0.1 lb/ton of aluminum equivalent (anode bake)* | ***Subpart LL—Primary Aluminum Reduction Plants***  *primary aluminum production (09/26/96)* | ***§ 63.844.***  *(a) Potlines:*  *(1) TF 1.2 lb/ton of aluminum*  *polycyclic organic matter limit (Soderberg) 0.63 lb/ton of aluminum*  *Anode bake furnaces:*  *TF 0.02 lb/ton of green anode; and*  *polycyclic organic matter 0.05 lb/ton of green anode* | *Primary aluminum ore reduction Best Available Control Technology limit* | *Total fluoride 0.0400 pounds per ton of aluminum*  *Particulate matter 0.0050 grains/dry standard cubic foot*  *10% opacity* |
| ***340-236-0120(1)(c)***  *any source* | *10 % opacity at any time* | ***§ 60.193***  ***Standard for visible emissions*** | *potroom group 10 % opacity*  *anode bake plant 20 % opacity* | ***§63.845 Potroom groups*** | *10 % opacity* |  |  |

| **Summary of Comments and DEQ Responses** | |
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| Category 1: Clarify and update air quality rules | |
| 1.36 continued | *The table above compares DEQ’s primary aluminum rules adopted in 1973 with EPA’s corresponding New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, rules which would apply to any new primary aluminum smelter in the state. As can be seen, the total fluoride limits for Soderberg potlines are comparable across the three standards but the limits for the anode bake furnaces are dramatically lower in the New Source Performance Standard (0.1 lb/ton of aluminum) than DEQ’s rules (1.2 lb/ton of aluminum). DEQ rules do not regulate emissions of polycyclic organic matter, a hazardous air pollutant regulated under the National Emission Standards for Hazardous Air Pollutants for primary aluminum reduction plants. The New Source Performance Standard opacity limit for anode bake plants (20%) is higher than the DEQ and National Emission Standards for Hazardous Air Pollutants limits (10%).*  *Also included in the table are limits for an aluminum smelter that triggered Prevention of Significant Deterioration in South Carolina in 2002. The Best Available Control Technology limit for total fluoride is 0.0400 pounds per ton of aluminum, 0.0050 grains per dry standard cubic foot and 10 percent opacity, by far more strict than DEQ’s existing rules, the New Source Performance Standard Subpart S, and the National Emission Standard for Hazardous Air Pollutants Subpart LL. Any new aluminum smelter in Oregon would also trigger PSD and would be subject to standards at least as restrictive as those for the South Carolina facility. Therefore, repealing the Primary Aluminum Standards will not weaken DEQ’s air permitting program.* |

| ***Laterite Ore Production of Ferronickel Rule Comparison*** | | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- |
| ***Laterite Ore Production of Ferronickel OAR*** | | ***CFR – NSPS Subpart Z*** | | ***CFR – NESHAP Subpart XXX*** | | ***Prevention of Significant Deterioration*** | |
| ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** |
| ***Laterite Ore Production of Ferronickel***  ***340-236-0210***  ***Applicability***  *all sources of laterite ore production of ferronickel* | *particulate matter 3.5 pounds per ton of dry laterite ore produced* | ***Subpart Z—Ferroalloy Production Facilities***  *Electric submerged arc furnaces produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, or calcium carbide; commences construction after October 21, 1974* | *particulate matter 0.99 lb/MW-hr while producing silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium*  *particulate matter 0.51 lb/MW-hr while producing high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, calcium carbide, ferrochrome silicon, ferromanganese silicon, silvery iron* | ***Subpart XXX—Ferroalloys Production: Ferromanganese and Silicomanganese***  *New and reconstructed submerged arc furnaces (05/20/99)* | *0.51 pounds per hour per megawatt, or*  *0.015 grains per dry standard cubic foot*  *Crushing and screening equipment— particulate matter 0.022 gr/dscf* | *Electric Arc Furnace Best Available Control Technology limit* | *particulate matter 0.0018 gr/dscf* |
|  | *20 % opacity* |  | *15 % opacity* |  | *20 % opacity* |  |  |

| **Summary of Comments and DEQ Responses** | |
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| Category 1: Clarify and update air quality rules | |
| 1.36 continued | *The table above compares DEQ’s Laterite Ore Production of Ferronickel rules adopted in 1972 with EPA’s New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, rules which would apply to any new Ferroalloy Production Facility in the state. Glenbrook Nickel was the only ferronickel smelter in the country. EPA was working on a National Emission Standards for Hazardous Air Pollutants, specifically for Glenbrook Nickel but withdrew the proposed rule. The following information is from the Technical Document for Promulgation of Standards: National Emission Standards for Ferroalloys Production: Ferromanganese and Silicomanganese Comment and Response Summary (April 13, 1999):*  *At the time of publication of the proposed rule (August 1998), the only existing facility in the United States producing ferronickel (Glenbrook Nickel Company) had suspended operations. Since that time, the company has said that they will permanently close the facility. The EPA has decided to exercise its authority to withdraw the proposed rule because there is no major source currently operating or expected to begin operating that would emit the HAP associated with ferronickel production. Should a new major source of ferronickel production commence operation after promulgation, the EPA will evaluate at that time how and whether to set a Maximum Achievable Control Technology standard. In any case, in the unlikely event a new ferronickel furnace were to be built, it would likely be subject to new source review requirements for particulate matter and section 112(g) preconstruction review for HAP.*  *The National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese is the closest standard available and is much more stringent with a 0.015 grains per dry standard cubic foot limit, which calculates to 0.66 pounds per ton of dry laterite ore produced from the electric arc furnace. The emission factor used in the Glenbrook Nickel permit for the electric arc furnace baghouses was 1.786 pounds per ton of dry Laterite ore produced, almost three times higher than the ferroalloy production National Emission Standards for Hazardous Air Pollutants limit. The National Emission Standards for Hazardous Air Pollutants also includes a grain loading limit for crushing and screening equipment (0.022 grains per dry standard cubic foot) which is lower than the OAR limit for this type of equipment (0.1 grains per dry standard cubic foot). The New Source Performance Standard opacity limit for Ferroalloy Production Facilities (15%) is lower than the DEQ and National Emission Standards for Hazardous Air Pollutants limits (20%).*  *The table above also includes a Best Available Control Technology limit for an electric arc furnace that triggered Prevention of Significant Deterioration in Arkansas in 2004. The Best Available Control Technology limit of 0.0018 grains per dry standard cubic foot was set for particulate matter emissions, even lower than the National Emission Standards for Hazardous Air Pollutants limit of 0.015 grains per dry standard cubic foot. Any new electric arc furnace producing ferronickel from laterite ore in Oregon would also trigger PSD and would be subject to standards at least as restrictive as those for the Arkansas facility. Therefore, repealing the Laterite Ore Production of Ferronickel rules will not weaken DEQ’s air permitting program.* |

| ***Charcoal Producing Plant Rule Comparison*** | | | | | |
| --- | --- | --- | --- | --- | --- |
| ***Charcoal Producing Plant OAR*** | | ***CFR – NSPS Subpart Y*** | | ***Prevention of Significant Deterioration*** | |
| ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** |
| ***340-240-0170***  ***Charcoal Producing Plants***  *charcoal producing plant sources including, but not limited to, charcoal furnaces, heat recovery boilers, and wood dryers using any portion of the charcoal furnace off-gases as a heat source,* | *particulate matter 10.0 pounds per ton of char excluding char storage, briquette making, boilers not using charcoal furnace off-gases, and fugitive sources*  *charcoal producing plants exempt from 0.1 gr/dscf for sources after June 1, 1970 and process weight in division 226.* | ***Subpart Y—Standards of Performance for Coal Preparation and Processing Plants***  *charcoal briquet manufacturing plants that process over 200 tons of coal a day and meet definition of "coal preparation plant"*  *commenced construction after May 27, 2009: Thermal dryers, pneumatic coal-cleaning equipment, coal processing and conveying equipment (breakers and crushers), coal storage systems, transfer and loading systems, and open storage piles* | *particulate matter 0.010 gr/dscf from thermal dryer; pneumatic coal-cleaning equipment; mechanical vent*  *10 % opacity except equipment for loading, unloading, and conveying operations of open storage piles.*  *fugitive coal dust control plan for open storage pile, includes loading, unloading, and conveying operations* | *Best Available Control Technology limit for charcoal furnaces, heat recovery boilers, and wood dryers using any portion of the charcoal furnace off-gases* | *particulate matter 1.6200 pounds per ton of dry wood (converted to 4.187 pounds per ton of char) for thermal oxidizer from rotary wood dryer, charcoal retort furnace and solvent treated briquette operations*  *0.3000 pounds per ton of dry briquettes limit for briquette coolers and dryers*  *Adding these two BACT limits to obtain 4.487 pounds per ton of briquettes* |

| **Summary of Comments and DEQ Responses** | |
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| Category 1: Clarify and update air quality rules | |
| 1.36 continued | *The table above compares DEQ’s charcoal producing plant rules adopted in 1978 with EPA’s New Source Performance Standards rules which would apply to any new charcoal producing plant in the state. DEQ’s rules exempt new charcoal producing plants from the grain loading standard of 0.1 grains per dry standard cubic foot. The New Source Performance Standard requires a 0.010 grains per dry standard cubic foot limit, much more stringent than DEQ’s rules. If the New Source Performance Standard grain loading limit of 0.010 grains per dry standard cubic foot applied, emissions from Royal Oak’s heat recovery boiler would be effectively limited to 15 tons per year of particulate matter rather than the permitted 106 tons per year using the limit in OAR 340-240-0170 (10.0 pounds per ton of char produced).*  *The table above also includes Best Available Control Technology limits for a briquette manufacturing facility that triggered Prevention of Significant Deterioration in Mississippi in 2004. Adding the two Best Available Control Technology limits to obtain 4.487 pounds per ton of briquettes would make it comparable to the OAR limit of 10.0 pounds per ton of char produced. Any new briquette manufacturing facility in Oregon would also trigger PSD and would be subject to standards at least as restrictive as those for the Mississippi facility. Therefore, repealing the Charcoal Producing Plants rules will not weaken DEQ’s air permitting program.*   | ***Sulfite Pulp Mill Rule Comparison*** | | | | | --- | --- | --- | --- | | ***Sulfite Pulp Mill OAR*** | | ***CFR – NESHAP Subpart MM*** | | | ***SOURCE*** | ***LIMIT*** | ***SOURCE*** | ***LIMIT*** | | ***Sulfite Pulp Mills***  ***OAR 340-234-0400***  *existing and new sulfite pulp mills*  *recovery furnace stacks* | *particulate matter 4 pounds per air dried ton of unbleached pulp* | ***Subpart MM—Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semi-chemical Pulp Mills***  *(04/15/98)* | *particulate matter 0.020 gr/dscf* |   *The table above compares DEQ’s Sulfite Pulp Mills adopted in 1971 with EPA’s National Emission Standards for Hazardous Air Pollutants which would apply to any new sulfite pulp mill in the state. A direct emission limit comparison is not possible since the limits are in different terms and conversions would be specific to the individual facility. If one assumes that the DEQ rule for sulfite pulp mills is comparable to the statewide DEQ particulate matter standard of 0.1 grains per dry standard cubic foot (the more restrictive limit for sources built after 1970), the Subpart MM limit of 0.020 grains per dry standard cubic foot would be much more restrictive.*  *DEQ found no sulfite pulp mills in the Reasonably Achievable Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse but the control technology would probably be similar to other types of pulp mills. Therefore, repealing the Sulfite Pulp Mill rules will not weaken DEQ’s air permitting program.* |

| **Summary of Comments and DEQ Responses** | |
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| Category 1: Clarify and update air quality rules | |
| 1.37 | Often times an operator cannot achieve 90 percent loads and should not be viewed as non-compliance during a source test. This is especially true of landfill gas control devices which can only operate at the specific load afforded by the available gas. DEQ should revise the testing requirement under full capacity to include “where possible emission should be tested at 90 percent of normal maximum operating rates.  DEQ received comments in this category from commenter 56 listed in the *Commenter section* below.  Response:  *DEQ generally does allow testing at 90 percent of normal maximum operating rates. DEQ recognizes normal maximum operating rate may be significantly less than the rated capacity of the equipment.  Operating rate requirements during compliance demonstrations are usually specified by permit condition. However, if the permit is mute on this issue, Source Sampling Manual provisions apply. If operating rate requirements cannot be satisfied, permittees should discuss this with staff at the DEQ regional office responsible for the facility, prior to conducting the compliance demonstration.*  *DEQ did not change the proposed rules in response to this comment.* |
| 1.38 | The proposed revised Continuous Monitoring Manual is not clear as to whether quarterly performance audits must be submitted to DEQ.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *Report submittals are addressed in Appendix C of the proposed Continuous Monitoring Manual. Section C.2.8 refers to reporting requirements for continuous monitoring system audits. DEQ agrees with the commenter and updated section C.2.8 to clarify these requirements and renumbered them to C.2.7.* |
| 1.39 | Section C.2.3.a.iii of the proposed Continuous Monitoring Manual requires generating an average where the aggregate number of opacity readings over the limit exceeds 3 minutes. This reference is to the opacity monitoring approach that DEQ is proposing to delete and replace with a federal-style 6 minute average. Therefore, we believe that Section C.2.3.a.iii should be deleted.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ deleted Section C.2.3.a.iii from the proposed rules. In addition, DEQ removed the NSPS reference in Section C.2.3.a.i.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 1.40 | Section C.2.6 of the Continuous Monitoring Manual requires “specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected source.” The language goes on to require that the nature and causes of any malfunction, the corrective action taken and the preventative measures adopted must be recorded as part of the continuous monitoring program, exceeding what is required by EPA.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *Section C.2.6 is consistent with requirements in division 214 and does not establish additional requirements. To prevent future inconsistencies, DEQ removed section C.2.5; renumbered section C.2.6 to C.2.5 and changed it to address this issue in a more generalized manner.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |

| **Summary of Comments and DEQ Responses**  Category 2: Update particulate matter emission standards | |
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|  | The proposed particulate emissions standards regarding opacity limits for boilers are acceptable with additional reasonable controls.  The proposed changes to grain loading and opacity standards are a welcomed first step in protecting airsheds from pollution. DEQ must clarify that this rule change is one step in modernizing control requirements. DEQ should also immediately add the use of a significant figure as mandated by EPA’s guidance.  DEQ received comments in this category from commenters 7 and 40 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter that adding a significant figure now to the grain loading standards to align with EPA guidance is a good idea. Currently the grain loading standards are 0.2 and 0.1 grains per dry standard cubic foot, depending on when the unit was installed. To report compliance with DEQ’s grain loading standards, a source test result of 0.244 would be rounded to 0.24 and would be considered in compliance with the 0.2 grains per dry standard cubic foot limit. A source test result of 0.248 would be rounded to 0.25 grains per dry standard cubic foot and would be considered a violation of the standard. Therefore, DEQ proposes adding a significant figure to the grain loading standards and changing them from 0.2 grains per dry standard cubic foot and 0.1 grains per dry standard cubic foot to 0.24 and 0.14 respectively in order to maintain the current stringency of the limits.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| DEQ did a good job in outreach to affected companies of the proposed changes to the grain loading and opacity requirements and listened to industry specific concerns. The need for the increased stringency that DEQ is proposing is still questionable.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *As stated in the Invitation to Comment, DEQ is proposing the changes for the following reasons:*   * *EPA’s adoption of a new PM2.5 24-hour National Ambient Air Quality Standards has resulted in 2 nonattainment areas in Oregon, with a third meeting the definition but not legally designated as such. This proposed rule change will reduce opacity in all areas and will help prevent future problems.* * *More and more areas of the state are special control areas due to population increases.*   *DEQ analyzed impacts from a typical pre-1970 source that has 40% opacity limit and 0.2 grains/dry standard cubic foot particulate matter limits located in the Klamath Falls PM2.5 nonattainment area.*   |  |  |  | | --- | --- | --- | | ***Grain Loading*** | ***Source Impacts*** | ***Source + Background*** | | *0.2 gr/dscf* | *30% of PM2.5 National Ambient Air Quality Standard* | *70% of PM2.5 National Ambient Air Quality Standard* | | *0.10 gr/dscf* | *13% of PM2.5 National Ambient Air Quality Standard* | *53% of PM2.5 National Ambient Air Quality Standard* |   *As the table above illustrates, a limit of 0.2 gr/dscf can consume 70% of the PM2.5 national ambient air quality standard when the background concentration is included. If a single source consumes 70% of the available airshed, it doesn’t leave much room for other businesses to locate or expand in the same airshed.*  *DEQ is proposing lower statewide standards for both particulate matter and opacity because other affected businesses are located in areas that are similar to Klamath Falls. They are small communities that have high background concentrations due to woodstove emissions. These communities have similar terrain and similar weather with potential for air stagnation periods in the winter time.*  *The lower standards are proactive measures to help prevent violations of the current PM2.5 standard and potentially more stringent standards in the future. These proposed changes are similar to more stringent limits adopted in PM10 nonattainment areas, adopted as reactive measures to nonattainment area designation.*  *DEQ did not change the proposed rules in response to this comment.* |
| 2.2 | The commenter supports DEQ’s proposal to remove the 30 second opacity rule applicable in the Portland Metropolitan area, which serves no health related function, is not part of the SIP and is a prime example of a regulation that should be deleted so as to streamline the Oregon program.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ did not change the proposed rules in response to this comment.* |
| 2.3 | DEQ’s proposal to remove the 20% opacity limit currently applicable to fugitive dust is a good idea. However, the expansion of the fugitive dust requirements to apply the rule statewide and to essentially prohibit fugitive emissions that are visible for more than 18 seconds in any 6-minute period is concerning. This is a significant tightening of the standard and is objectionable. If DEQ insists on implementing OAR 340-208-0210(3) then, at the very least, a source should be allowed the option to demonstrate that it does not exceed 20 percent opacity as an alternative to having to reduce fugitive emissions to the sub-visible range for 95 percent of the time. This approach is consistent with that taken in many Title V permits currently and should be workable in the current rule.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *OAR 340-208-0200 through 340-208-0210 only applied in special control areas and areas where DEQ determined there was a nuisance, while the visible emissions requirement in OAR 340-208-0110 applied everywhere and applied to fugitive emission sources. Since reading opacity on fugitive emission sources using EPA Method 9 can be very difficult, DEQ proposed changes in the applicability of OAR 340-208-0110, omitting numerical opacity limits for fugitive emission sources. The distinction in OAR 340-208-0200 for special control areas and other areas where DEQ determines a nuisance exists may have made sense before when the numerical opacity limits applied to fugitive emission sources throughout the state. But now that numerical opacity limits will not apply to fugitive emission sources outside of special control areas and areas where DEQ determines there is a nuisance, fugitive emission controls need to apply in these areas too.*  *Rather than making a determination of a nuisance or trying to read opacity for fugitive emission source to comply with an opacity limit, DEQ has clarified that fugitive emissions must be abated upon order using work practice standards. DEQ also added a definition for particulate fugitive emissions:*  *“fugitive emissions are visible emissions that leave the property of a source for more than 18 seconds in a six minute period. The minimum observation time shall be at least six minutes unless otherwise specified in a permit.”*  *Title V permits have the following permit condition as an applicable requirement and the associated monitoring and recordkeeping requirement for fugitive emissions:*  *Applicable Requirement: The permittee must not allow or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished; or any equipment to be operated, without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions must include, but not be limited to the following: [OAR 340-208-0210(2)]*   * *use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads or the clearing of land;* * *application of asphalt, oil, water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces which can create airborne dusts;* * *full or partial enclosure of materials stockpiles in cases where application of oil, water, or chemicals are not sufficient to prevent particulate matter from becoming airborne;* * *installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty materials;* * *adequate containment during sandblasting or other similar operations; and* * *covering, at all times when in motion, open bodied trucks transporting materials likely to become airborne.*   *Monitoring and Recordkeeping Requirement: At least once each semi-annual reporting period and within 24 hours of receiving a particulate nuisance complaint, the permittee must visually survey the plant for any sources of excess fugitive emissions. For the purpose of this survey, excess fugitive emissions are considered to be any visible emissions that leave the plant site boundaries. The person conducting the observation does not have to be EPA Method 9 certified. However, the individual should be familiar with the procedures of EPA Method 9, including using the proper location to observe visible emissions. If sources of visible emissions are identified, the permittee must: [OAR 340-218-0050(3)(a)]*   * *immediately take corrective action to minimize the fugitive emissions, including but not limited to those actions identified in condition* XX*; or* * *conduct a Modified EPA Method 9 test within 24 hours;* * *The permittee must maintain records of the fugitive emissions surveys, corrective actions (if necessary), and/or the results of any modified EPA Method 9 tests.*   *Based on the second sentence in the monitoring and recordkeeping requirement, fugitive emissions are defined as ANY visible emissions that leave the plant site boundaries. DEQ’s proposed definition of fugitive emissions as those visible emissions that leave the property of a source for more than 18 seconds in a six minute period is less stringent than the existing Title V permit condition. DEQ determined that requiring abatement of fugitive emissions after 18 seconds is more realistic than abatement after any visible emissions that leave the plant site boundaries.*  *DEQ did not change the proposed rules in response to this comment.* |

| **Summary of Comments and DEQ Responses**  Category 3: Change permitting requirements for emergency generators and small natural gas or oil-fired equipment | |
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|  | DEQ should not change the current definition of “categorically insignificant activity,” which includes natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr and distillate oil, kerosene or gasoline fuel-burning equipment rated at less than or equal to 0.4 million Btu/hour. It would be costly to sources and of the Department’s limited resources to limit the fuel burning equipment qualifying as a categorically insignificant activity and subject this equipment to the full extent of regulation under the state’s air quality rules. If DEQ insists on regulating those small units, it should at least design a process to accommodate those routine modifications easily and cheaply. Quantifying the emissions from those many small sources will also be extremely difficult, as emissions data on those units is scarce and testing so many units is not feasible.  The proposed definitions do not exclude temporary and rented units which could change the aggregate emissions if close to the de minimis emission rate and trigger permitting applicability.  DEQ received comments in this category from commenters 2, 3, 4, 7, 12, 20, 41, 42, 44, 46, 47, 48 and 58 listed in the *Commenter section* below.  *DEQ proposed revisions to how four categorically insignificant activities are defined because DEQ found that emissions or potential to emit from those activities are significant at some sources, i.e. equal to or more than the de minimis emission rate for a regulated pollutant, which was the criteria in determining the original list of categorically insignificant activities. DEQ has also proposed other rule changes to ensure that including formerly categorically insignificant activities in a permit will not trigger new regulatory requirements, other than the requirement to include them in a source’s permit and account for their emissions.*  *DEQ proposed changes to the list of categorically insignificant activities to exclude activities whose emissions would exceed the de minimis level and to account for their emissions for the purpose of properly administering the air permitting program. Revising these categories will result in some equipment no longer being considered categorically insignificant. DEQ re-examined the proposed changes to all four categorically insignificant activities and has revised each of them as explained below.*  *Categories (c) and (d)*  *The current rules read as follows:*  *(c) Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hr;*  *(d) Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr;*  *Categories (c) and (d) cover generally similar types of equipment, with the primary difference being the type of fuel used. Therefore, under the proposed final rules, DEQ has combined them into a single category. DEQ also recognizes that a source may have a number of such devices, some of which may be too small to justify the effort to track them and include them in a permit. On the other hand, DEQ is aware of sources where the aggregated emissions from these devices exceed the de minimis level. For this category, DEQ has tried to find a balance between these conflicting considerations, and therefore will allow sources to split these devices into two groups. One group would still be considered categorically insignificant, provided certain conditions are met. The other group would not be considered categorically insignificant and must be included in the source’s permit. DEQ has calculated a default aggregate heat input rating of 5.0 million Btu per hour for the categorically insignificant equipment, knowing that equipment less than this heat input rating will have emissions less than de minimis levels. As an alternative, sources may identify which devices are categorically insignificant based on site specific expected usage.*  *DEQ determined the default aggregate heat input rating of 5.0 million Btu per hour by converting emission factors from AP-42 for external combustion devices rated less than 100 million Btu per hour for distillate fuel oil and natural gas to a pound per million Btu basis and compared. The higher of the two factors was then used to calculate a maximum heat input rating based on a 33 1/3 percent capacity factor (that is, assuming the maximum firing rate for 1/3 of a year or 2,920 hours).*  *Distillate fuel oil (ultra-low sulfur diesel is assumed)*  *20 lb/kgal × 1 kgal/1000 gal × 1 gal/140,000 Btu × 1,000,000 Btu/MMBtu = 0.14 lb/MMBtu*  *Natural gas*  *100 lb/MMcf × 1 MMcf/1,000,000 cubic feet × 1 cubic feet/1025 Btu × 1,000,000 Btu/MMBtu = 0.10 lb/MMBtu*  *The maximum heat input rating that would result in emissions of 1 ton of nitrogen oxides, which has the highest emission factor of the criteria pollutants, was then calculated, based on an annual capacity factor of 33 1/3 percent.*  *X MMBtu/hr × 0.14 lb/MMBtu × 2920 hr/yr × 1 ton/2000 lb = 1 ton per year*  *Solving for X gives the default aggregate heat input rating:*  *X = 4.9 MMBtu/hr (rounded up to 5.0)*  *In reviewing categories (c) and (d), DEQ also noted that category (c) includes the phrase “fuel burning equipment,” but category (d) does not include this phrase. The phrase “fuel burning equipment” has a particular meaning in DEQ’s rules which is too restrictive for the type of equipment that DEQ intends to address in these categories. The equipment that DEQ intends to address includes water heaters and space heaters, or more generally, equipment that uses either direct or indirect heat transfer. DEQ has therefore removed the phrase “fuel burning equipment” and replaced it with “Distillate oil, kerosene, gasoline, natural gas or propane burning equipment.”*  *The final proposed revision for categories (c) and (d) are as follows:*  *(c) Distillate oil, kerosene, gasoline, natural gas or propane burning equipment, or a subgroup of such equipment identified by the source, that meet the criteria in paragraphs (A) and (B).*  *(A) The categorically insignificant equipment or subgroup must meet one of the following criteria:*  *(i) The aggregate maximum heat input rating of the equipment or subgroup may not exceed 5.0 million Btu/hr; or*  *(ii) The aggregate emissions of the equipment or subgroup may not exceed the de minimis level for any regulated pollutant, based on the expected maximum annual operation of the equipment.*  *(B) The categorically insignificant equipment or subgroup may not include the following:*  *(i) Individual distillate oil, kerosene or gasoline burning equipment with a heat input rating greater than 0.4 million Btu/hr; or*  *(ii) Individual natural gas or propane burning equipment with a heat input rating greater than 2.0 million Btu/hour;*  *DEQ agrees that temporary and rented units should be considered categorically insignificant and has proposed to replace subparagraph (d) in the definition of categorically insignificant with the following:*  *(d) Distillate oil, kerosene, gasoline, natural gas or propane burning equipment brought on site for six months or less for maintenance, construction or similar purposes, such as but not limited to hot water pressure washers and space heaters;*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 3.2 | DEQ proposed revisions to the categorically insignificant activity category for emergency generators and pumps are overly broad and overreaching. DEQ’s proposal would make the definition of categorically insignificant emergency generators much too narrow, and impose new costs and administrative burdens on myriad sources with emergency generators the emissions from which are clearly insignificant.  First, DEQ should delete part B of the proposed definition. The mere fact that a source has an emergency unit rated at 500 horsepower or greater does not reflect the source’s actual emissions from that unit, or other of its emergency generators. Second, DEQ should revise part A of the proposed definition to clarify that the assessment of a source’s aggregate emergency generator emissions should be made by reference to actual emissions from those units over the calendar year.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 43, 44, 47, 48, 57 and 58 listed in the *Commenter section* below.  Response:  *In recent years reciprocating internal combustion engines (RICE) used to power emergency generators and pumps have become more of a concern to DEQ for the following reasons:*   * *EPA promulgated two New Source Performance Standards (NSPS), 40 CFR Part 60, Subparts IIII and JJJJ, and a National Emission Standard for Hazardous Air Pollutants (NESHAP), 40 CFR Part 63, Subpart ZZZZ, for reciprocating internal combustion engines;* * *The construction of data centers equipped with a large backup generator capacity powered by emergency engines; and* * *Finding that at least one existing source is also equipped with a large backup generator capacity powered by emergency engines.*   *Prior to this rulemaking, all emergency generators and pumps were classified as “categorically insignificant activities” and have generally not been addressed in permits. In this rulemaking, DEQ proposed to exclude emergency engines from being categorically insignificant if their aggregate emissions, based on 100 hours per year of operation, exceed the de minimis rate. Commenters indicated that sources have no incentive to operate emergency engines more than necessary, and upon review, DEQ agrees. DEQ also concluded that this category can be simplified, as explained below.*  *Emergency engines are usually diesel engines, and nitrogen oxides is the pollutant emitted that will exceed the de minimis level first, assuming the use of ultra-low sulfur diesel fuel. The de minimis emission level for nitrogen oxides is 1 ton per year. DEQ found there are sources that have enough emergency engine capacity to emit more than 1 ton per year from maintenance and readiness testing operation of their emergency engines. Therefore, DEQ determined it is appropriate to revise the category of emergency generators and fire pumps in the definition of categorically insignificant activities to exclude emergency engines if they exceed a specified threshold.*  *DEQ originally proposed to change this category to read as follows:*  *Stationary emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency; unless one or both of the following conditions is met, then all of this equipment is no longer categorically insignificant:*  *(A) The aggregate emissions from stationary emergency generators and pumps are greater than the de minimis level for any regulated pollutant based on the readiness and testing hours of operation allowed by NSPS or NESHAP requirements or some other hours of operation specified in a permit; or*  *(B) Any individual stationary emergency generator or pump is rated at 500 horsepower or more.*  *In (A), the readiness and testing hours of operation allowed by NSPS or NESHAP requirements is 100 hours per year. Commenters pointed out that sources have no incentive to actually operate emergency engines for this number of hours, and DEQ agrees. The proposed language would allow a source to specify a different number of hours per year in a permit, but this would obviously require revising a permit to specify the number of hours. Upon reconsideration, DEQ concluded that the proposed change would create an additional workload for affected sources as well as for DEQ with little or no environmental benefit.*  *Instead, DEQ proposes to establish a conservative default aggregate engine horsepower level at which emissions can reliably be assumed to not exceed the de minimis level. DEQ submits that this default level will allow emergency generators and pumps at the majority of sources to still be considered categorically insignificant without requiring emissions calculations or permit revisions to specify the number of operating hours used for the emissions calculations. If the aggregate engine horsepower exceeds the threshold, then all of the engines at the source are not categorically insignificant.*  *DEQ conservatively estimated the default maximum aggregate horsepower as explained below.*   * *DEQ used the uncontrolled diesel engine nitrogen oxides emission factor of 0.024 lb/hp-hr from AP-42, Table 3.4-1, and* * *DEQ used 28 hours per year of operation for testing and maintenance, determined as follows:* * *Two information sources2 indicate that emergency generators should be tested for 30 minutes per month. Another source3 indicated that the 30 minutes does not include warm-up and cool-down time; DEQ has therefore assumed a minimum of 1 hour of operation per month. In addition, this source indicates that certain emergency generators, such as those at hospitals, must perform an annual load test that lasts for a minimum of two hours. DEQ assumes this also does not include warm-up and cool-down and therefore assumes a total of 3 hours of operation. One hour of operation for 11 months plus three hours in one month gives a total minimum operating time of 14 hours per year. To be conservative, DEQ has doubled this value to 28 hours per year.*   *Based on the above, the default maximum horsepower rating is:*  *1 ton per year × 2000 pounds per ton / (0.024 pound/horsepower-hour × 28 hours per year) = 2,976 horsepower (rounded to 3,000 horsepower)*  *The final proposed revision for category (uu) reads as follows:*  *(uu) Stationary emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency, provided that the aggregate horsepower rating of all stationary emergency generators and pumps is not more than 3,000 horsepower. If the aggregate horsepower rating of all stationary emergency generators and pumps is more than 3,000 horsepower, then no emergency generators and pumps at the source may be considered categorically insignificant;*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.*  *2 Maintaining Emergency and Standby Engine-Generator Sets*  *Hartford Steam Boiler**One State Street P.O. Box 5024 Hartford, CT 06102-5024 Tel: (800) 472-1866 www.hsb.com June 2014*  *Power topic #7004 | Technical information from Cummins Power Generation*  *Maintenance is one key to diesel generator set reliability > White paper By Timothy A. Loehlein, Project Manager*  *3 INSPECTION AND TESTING OF EMERGENCY GENERATORS, available at: http://www.health.state.mn.us/divs/fpc/Gensets2.pdf* |
| 3.3 | DEQ has proposed to change the existing categorically insignificant activity category of “oil/water separators in effluent treatment systems” so as to limit that category to “[u]controlled oil/water separators in effluent treatment systems with a throughput of less than 400,000 gallons per year.” This proposed change would cause numerous oil/water separators that remove petroleum oils from storm water or wastewater to lose their status as categorically insignificant units. These systems are typically designed to prevent oil and other volatile liquids from reaching storm water or wastewater outfalls. Under DEQ’s proposal, sources would be required to account for any volatile organic compounds emissions from those systems in their Plant Site Emission Limit calculations and to seek construction approval before installing or modifying any qualifying oil/water separator.  DEQ received comments in this category from commenters 2, 3, 4, 7, 12, 20, 41, 42, 43, 44, 47, 48, 57 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter and changed the categorically insignificant activity category of “oil/water separators in effluent treatment systems” to the following:*  *(bbb) Uncontrolled oil/water separators in effluent treatment systems, excluding systems located at petroleum refineries and gasoline distribution terminals with a throughput of less greater than 400,000 gallons per year of effluent.*  *The AP-42 factor for which the proposed 400,000 gallon per year criteria was derived is specific to petroleum refineries (AP42,* [*Table 5.1-2*](http://www.epa.gov/ttn/chief/ap42/ch05/final/c05s01.pdf)*).* [*Lane Regional Air Pollution Authority permits a gasoline distribution terminal*](http://www.lrapa.org/downloads/permits/207506_SFPP_RR_10-1-08.pdf) *that requested to have their oil/water separator included in the Plant Site Emission Limit since it is estimated to be greater than 1 ton per year volatile organic compounds de minimis level.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 3.4 | DEQ should increase the aggregate emission rate for applicability to a threshold that is greater than the de minimis rate.  DEQ received comments in this category from commenter 46 listed in the *Commenter section* below.  Response:  *DEQ established the aggregate insignificant emission rate at one ton per year for most pollutants because of the Plant Site Emission Limit rules. At levels over one ton per year, the emissions would need to be included in the Plant Site Emission Limits.*  *DEQ did not change the proposed rules in response to this comment.* |

| **Summary of Comments and DEQ Responses**  Category 4: Establish two new state air quality area designations, “sustainment” and “reattainment,” to help areas avoid and more quickly end a federal nonattainment designation | |
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|  | Instead of spending time and energy creating from scratch a brand new, untested area designation program, DEQ should be investing its energy, resources, and technical knowledge in helping the Town of Lakeview undertake the process that the Clean Air Act lays out to deal with areas violating the National Ambient Air Quality Standards. Choosing Lakeview as a sustainment area is clearly a poor test case. It is unclear whether the sustainment area program is sufficient to actually help an area comply with the National Ambient Air Quality Standards, potentially putting an area in a limbo between attainment and nonattainment while Oregonians’ health is being affected.  Lakeview, a proposed sustainment area, suffers from air quality problems that are driven by woodstove smoke and no amount of additional regulation can change the Lakeview Area’s air quality status. DEQ’s Sustainment Area proposal is likely to be the very thing that makes it impossible for the Lakeview Area to actually improve its air quality. Since February 2013, the Town of Lakeview, Lake County, DEQ, and Collins have been actively engaged in US EPA’s PM Advance Program hopefully eliminating the need for the Sustainment Area concept to be applied to the Lakeview Area. If the Lakeview PM Advance Plan is successfully implemented and other jurisdictions like Prineville or Burns utilize the PM Advance option, there is no need for DEQ to impose additional regulations such as a “Sustainment Area” designation for the Lakeview area or any other local jurisdiction.  DEQ received comments in this category from commenters 12 and 40 listed in the *Commenter section* below.  Response:  *DEQ is not relying on the new area designations to bring air quality in Lakeview into attainment, nor does DEQ intend for the new area designations to replace nonattainment designations or nonattainment planning. While the new sustainment area may be part of the overall approach that DEQ’s air quality planning program, EPA and local governments use to try to bring an area back into compliance with National Ambient Air Quality Standards, it primarily affects the air quality permitting program, not the air quality planning program.*  *DEQ proposed the new area designations to at least partially eliminate a permitting roadblock that exists when air quality exceeds an ambient air quality standard but the area is still designated as attainment or unclassified. The sustainment area designation, along with other revisions to the new source review permitting program, is also intended to help address the primary source or sources of air quality problems in areas like Lakeview by encouraging new or expanding sources to obtain offsets from the primary source or sources of the air quality problem. DEQ does not see the new area designations as a replacement for the existing regulatory structure that addresses areas with air quality problems, but as an addition to that structure.*  *DEQ did not change the proposed rules in response to this comment.* |
| 4.2 | DEQ’s proposal would make the current system more complex by adding two new designations: attainment/sustainment and nonattainment/reattainment. In addition, DEQ’s proposal to differentiate between “major sources” and “federal major sources” in nonattainment and maintenance areas will put “major sources” under a lesser level of scrutiny.  DEQ has not identified any areas where designation as reattainment would currently be applied. There is no way to understand the practical application of the reattainment program without any context to apply it. The reattainment program also raises serious questions of whether the proposal complies with the anti-backsliding provisions of the Clean Air Act and whether the proposal would weaken Oregon’s State Implementation Plan .  For these reasons, DEQ should abandon the proposed changes to the New Source Review program until an actual need is identified.  DEQ received comments in this category from commenter 40 listed in the *Commenter section* below.  Response:  *DEQ agrees that adding the sustainment and reattainment areas makes the rules somewhat more complex, but DEQ does not agree that the revised rules are significantly more complex than they were from 2001 through early 2015. The area designations in the 2001/2015 New Source Review rules have unique requirements tailored to each type of area. A user of the rules had to identify whether a source was subject to New Source Review and then find the area-specific requirements. Although there are now five types of areas, the same general approach will apply.*  *DEQ does not agree that “major sources” will be under a lesser level of scrutiny. As explained in the Category 5. Change the New Source Review preconstruction permitting program response below, sources that were formerly subject to major New Source Review under the 2001/2015 New Source Review rules will now be subject to Type A State New Source Review. Type A State New Source Review generally retains requirements that are similar to the 2001/2015 New Source Review requirements. This was done specifically to avoid backsliding and to maintain program continuity.*  *DEQ agrees that no areas are proposed to be designated as reattainment at this time. While the case-by-case determination suggested by commenters has merit, DEQ must work within rules which usually take years to revise, making a case-by-case approach practically unworkable. DEQ has instead used this rulemaking to broaden the limited number of cases we can work within to provide more flexibility for the permitting program.*  *Regarding backsliding, DEQ conferred with EPA Region 10 to ensure that these rule proposals would not be considered backsliding and would be approvable. As noted above, the requirements for sources that were formerly subject to the 2001/2015 New Source Review program will generally continue to apply even though some of those sources will now be covered by the State New Source Review program.*  *DEQ did not change the proposed rules in response to this comment.* |
| 4.3 | Proposed changes to the New Source Review requirements are insufficient to protect air quality. It is unclear whether this program would even work in areas that are above the National Ambient Air Quality Standards. A requirement of State New Source Review is that the source demonstrates it will not cause or contribute to a new violation of the National Ambient Air Quality Standards even if their emissions model below the significant impact level. Unless the modeling shows zero impact, it is unclear whether, even under the sustainment designation, new sources and modifications can meet the requirements of State New Source Review.  DEQ should not complicate the Oregon regulatory structure with the addition of sustainment areas, a concept that has no basis in the federal program or any other state program. As proposed, a major new source seeking to locate in a designated sustainment area would have to comply with all the extremely stringent Prevention of Significant Deterioration permitting requirements plus demonstrate a net air quality benefit. No source has ever been able to meet Oregon’s unique requirements for demonstrating a net air quality benefit absent a legislatively mandated alternative process that most facilities are not eligible to utilize. Therefore, this new sustainment area designation and the proposed set of unprecedented regulatory requirements will make it difficult for these areas to attract or expand business and, therefore, employment.  DEQ received comments in this category from commenters 12 and 40 listed in the *Commenter section* below.  Response:  *DEQ does not agree with the commenter.*  *A source seeking to locate in an attainment area where air quality exceeds National Ambient Air Quality Standards has little or no chance of showing compliance with the air quality analysis requirement. For such a source, having the area designated as nonattainment would eliminate the requirement for the air quality analysis and replace it with requirements to obtain offsets and demonstrate net air quality benefit. Although these requirements are not easy to meet, they are at least possible. However, it takes years to change the way an area is designated, during which time an effective permit roadblock exists.*  *DEQ created the sustainment area designation to remove the permitting roadblock, at least for those sources subject to State New Source Review. Sources that are subject to Major New Source Review in such areas will still face the permitting roadblock because the Major New Source Review requirements must comply with the federal Prevention of Significant Deterioration requirements; DEQ cannot make these requirements less stringent. These sources must still meet the air quality analysis requirement, which, as stated above, will be difficult if not impossible. DEQ is well aware that the sustainment area requirements for Major New Source Review do not change the situation and tried to be clear about this in the rulemaking public notice and meetings.*  *To remove the permitting roadblock for sources subject to State New Source Review, DEQ essentially blended the requirements for attainment and nonattainment areas to allow sources a choice of performing the air quality analysis or of obtaining offsets and demonstrating net air quality benefit. In reality, the air quality analysis requirements will likely still be very difficult or impossible to meet, leaving offsets and net air quality benefit the only real choice. In effect, for sources subject to State New Source Review, the requirements are similar to those in a nonattainment area.*  *The sustainment area designation is a pollutant-specific designation and will affect permitting only for the pollutant that is close to or exceeding the National Ambient Air Quality Standard. For all other pollutants the area will still be designated attainment/unclassified.*  *Lakeview is currently designated as an attainment/unclassified area. To obtain a permit, a source must complete an air quality analysis that demonstrates that their emissions do no cause an exceedance of a National Ambient Air Quality Standards. However, if the air quality already exceeds a National Ambient Air Quality Standards, as it does in Lakeview, this test is very difficult or impossible to pass.*  *The only alternative prior to this rulemaking was to designate the area as a nonattainment area. In a nonattainment area, the air quality analysis is not required but other requirements must be met, such as obtaining offsets and meeting the net air quality benefit requirements. However, it takes years to change the area’s designation. During that time, the area remains designated as attainment/unclassified and obtaining a permit is practically impossible.*  *Another aspect of the rules that made obtaining a permit very difficult or impossible was the net air quality benefit requirements. In this rulemaking, the net air quality benefit requirements have been revised to replace the nearly impossible to meet requirement with one that is not impossible to meet but is still protective of air quality. DEQ does not claim that the new requirement is easy to meet, as it is intended to protect air quality in an area where air quality is already close to or exceeding a National Ambient Air Quality Standards.*  *DEQ did not change the proposed rules in response to this comment.* |

| **Summary of Comments and DEQ Responses**  Category 5: Designate Lakeview as a state sustainment area while retaining its federal attainment designation | |
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|  | DEQ must not designate Lakeview as a state sustainment area and allow the county to shirk the nonattainment are requirements of the CAA. Lakeview has consistently exceeded the 24-hour PM2.5 National Ambient Air Quality Standards in the past three years and should be re-designated as a nonattainment area.  Allowing continued growth of industrial emissions, while focusing on residential woodstoves, is unlikely to move Lakeview away from a violation of the PM2.5 National Ambient Air Quality Standards. Under the sustainment designation, new industrial emission sources would in fact replace rather than reduce emissions based on the 0.1:1 offsets ratio. The offset ratios chosen by DEQ are wholly insufficient to achieve the goals of the sustainment program to keep an area under the National Ambient Air Quality Standards, let alone reducing emissions in an area violating the National Ambient Air Quality Standards enough to help the area get below dangerous levels. This offset ratio is lower than is required in maintenance areas, which are actually in compliance with the air quality standards. DEQ should implement an offset ratio for sustainment areas that is at least 1:1.  DEQ likely underestimates emissions from the wood products industry. Much like wood stoves, emissions from the wood products industry varies due to seasonal changes in fuel source. DEQ’s analysis also ignores the maintenance, start up and shut down times that are often necessary as a part of industrial processes and which leads to greater emissions. DEQ has also failed to demonstrate that industrial emissions will not also suffer from the inversion issues in the winter that the agency attributes to wood stoves. Thus industrial sources in fact may result in a greater adverse impact to the region.  DEQ should get an accurate inventory by monitoring emissions in the region, and only then craft a program to address sources that have been demonstrated to be priority sources of PM2.5 emissions. What’s more, DEQ is seeking to redesignate Lakeview as a sustainment area in combination with Lakeview’s proposal to join EPA’s PM Advance program. Once instituted, EPA is likely to consider these “buffer” programs in addition to any National Ambient Air Quality Standards violation when considering whether to redesignate Lakeview as nonattainment. Lakeview’s request for redesignation from the Environmental Quality Commission cites to inaccurate data.  DEQ received comments in this category from commenter 40 listed in the *Commenter section* below.  Response:  *DEQ disagrees with the comment that Lakeview should not be designated a sustainment area. DEQ further disagrees that a sustainment area designation will allow the county to shirk the express requirements of the CAA. The sustainment area designation only changes the state permitting requirements in the area; it does not change any other aspect of DEQ’s air quality program. Activities directed toward designating the area as a nonattainment area, as well as efforts to improve air quality, are administered by the Air Quality Planning program, not the permitting program, and will continue.*  *DEQ disagrees that there is not sufficient data to show that wood-burning is the primary cause of PM2.5 24-hour National Ambient Air Quality Standards violations. Reducing emissions from burning wood will have the greatest effect on 24-hour PM2.5 concentrations and compliance with the National Ambient Air Quality Standards. However, the sustainment area requirements by no means eliminate or seriously undercut the regulation of industrial emissions. One of the primary permitting requirements in a nonattainment area is to obtain emissions offsets. The sustainment area designation will also require emissions offsets. Although the rules allow a new source to lower the offset ratio by obtaining part of their offsets from woodstoves, it is unlikely that a source could obtain all of its offsets from woodstoves. DEQ determined that the remaining required offsets will most likely be obtained from industrial sources.*  *DEQ agrees with commenters that the proposed offset ratio of 0.1:1 is too low. DEQ also notes that commenters are correct that the offset ratio in maintenance areas is 1:1. DEQ’s original proposal was driven by DEQ’s view that PM2.5 problems in areas like Lakeview are largely (although not entirely) caused by residential wood burning. DEQ’s intent in proposing a low offset ratio was that a new source would be encouraged to obtain all of their offsets from woodstoves.*  *Based on these comments, DEQ has reconsidered the offset ratio for sustainment areas, as well as the proposed offset ratios for all areas. DEQ has also taken into consideration the comment that priority sources have not been identified for areas other than Lakeview. In DEQ’s revised view, offset ratios should not only be area-specific, but should also take into account whether or not priority sources have been identified for each area. DEQ determined a two-tiered approach is needed, with one tier for areas where priority sources have been identified and another tier for areas where priority sources have not been identified. The proposed offset ratios below apply only to areas that are designated for pollutants other than ozone.*   |  |  |  | | --- | --- | --- | | ***Area***  ***designation*** | ***Originally***  ***proposed*** | ***Revised proposal*** | | *Attainment/*  *unclassified* | *n/a* | *n/a* | | *Sustainment* | *0.1 to 1,*  *reducible to 0.05 to 1* | *If priority sources are identified:*  *1.0 to 1, reducible to 0.5 to 1*  *If no priority sources identified:*  *0.5 to 1* | | *Nonattainment* | *1.2 to 1,*  *reducible to 1.0 to 1* | *If priority sources are identified:*  *1.2 to 1, reducible to 1.0:1*  *If no priority sources identified:*  *1.0 to 1* | | *Reattainment* | *1.0 to 1,*  *reducible to 0.5 to 1* | *If priority sources are identified:*  *1.0 to 1, reducible to 0.5 to 1*  *If no priority sources identified:*  *0.5 to 1* | | *Maintenance* | *1.0 to 1,*  *reducible to 0.5 to 1* | *If priority sources are identified:*  *1.0 to 1, reducible to 0.5 to 1*  *If no priority sources identified:*  *0.5 to 1* |   *DEQ is aware that emissions from wood-fired boilers tend to be higher during the winter months due to increased heat needs. DEQ’s belief that residential wood burning is a major contributor to 24-hour PM2.5 National Ambient Air Quality Standards exceedances in Lakeview is based on examination of the PM2.5 monitoring results compared to time of day and overnight temperatures. Exceedances occur on cold winter nights when wood burning for home heating is high. Despite the clear relationship with residential wood burning, DEQ does not discount the contribution from other sources, including industry. Although the rules for a sustainment area are structured to encourage obtaining offsets from woodstoves, obtaining all offsets from woodstoves is likely impossible and any non-woodstove offsets will likely be obtained from industrial sources. Further, the rules that a new source must comply with are intended to ensure that the new emissions do not exacerbate the existing air quality problems. The new rules change, but do not eliminate the stringent requirements that a new industrial source must meet.*  *DEQ appreciates and supports the efforts that Lakeview is making to bring air quality back below the National Ambient Air Quality Standards. The intent of the sustainment area designation is not to hinder or undercut any of these efforts; rather, the intent is to remove a permitting roadblock so that at least some sources can obtain permits.*  *DEQ agrees with some of the comments and will change the rules amendments in response to the comment.* |

| **Summary of Comments and DEQ Responses**  Category 6: Change the New Source Review preconstruction permitting program | |
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|  | *As part of the response to these comments, DEQ is providing a general overview of how the structure of the new New Source Review rules relates to the structure of the previous (2001 through early 2015) New Source Review rules. The purpose of this overview to help clarify the changes and DEQ’s responses to comments.*  *Note that in these responses, the following terms are used:*  *“2001/2015 New Source Review”, which refers to the New Source Review program in OAR 340 division 224 as it existed from 2001 through early 2015;*  *“Plant Site Emission Limit rule”, which refers to OAR 340-222-0041 as it existed from 2001 through early 2015; and*  *“Major New Source Review” and “State New Source Review”, which refer to the new major and minor New Source Review program created by this rulemaking and found in the revised OAR 340 division 224.*  *The new source review program consists of two distinct components, referred to as major new source review and minor new source review. Under the 2001 through early 2015 rules, major New Source Review was covered by OAR 340 division 224 and in Oregon was referred to simply as New Source Review. For clarity, the 2001 through early 2015 New Source Review program will be referred to in this discussion as 2001/2015 New Source Review. Minor New Source Review was covered by OAR 340-222-0041, and was commonly called the “Plant Site Emission Limit rule”.*  *Under the new rules, both major and minor new source review are covered primarily under OAR 340 division 224. The major new source review program is referred to as Major New Source Review, while the minor new source review program has been labeled “State New Source Review”. In addition, State New Source Review is subdivided into Type A State New Source Review and Type B State New Source Review. This was done to maintain program continuity; the discussion below should help clarify this.*  *The 2001/2015 New Source Review and new Major and State New Source Review requirements are area-specific and are compared below for three types of areas:*  *Attainment/unclassified areas*  *Emissions ≥ SER, and emissions ≥ NB + SER*   |  |  |  | | --- | --- | --- | | ***Scenario*** | ***2001 through early 2015 rules*** | ***New rules*** | | *Federal major source; with a major modification* | *2001/2015 New Source Review* | *Major New Source Review* | | *Federal major source; no major modification* | *Plant Site Emission Limit rule* | *Type B State New Source Review* | | *Not a federal major source; with a major modification* | *Plant Site Emission Limit rule* | *Type B State New Source Review* | | *Not a federal major source; no major modification* | *Plant Site Emission Limit rule* | *Type B State New Source Review* |   *Nonattainment and Maintenance Areas*  *Under the 2001 through early 2015 rules, OAR 340 division 224 could apply to sources with emissions greater than or equal to the SER. However, to clearly show the relationship between the previous and new rules for nonattainment and maintenance areas, two tables are presented below based on the source’s emissions.*  ***Emissions ≥ 100 tons per year****, and emissions ≥ NB + SER*   |  |  |  | | --- | --- | --- | | ***Scenario*** | ***2001 through early 2015 rules*** | ***New rules*** | | *Major modification* | *2001/2015 New Source Review* | *Major New Source Review* | | *No major modification* | *Plant Site Emission Limit rule* | *Type B State New Source Review* |   ***Emissions ≥ SER but less than 100 tons per year****, and*  *emissions ≥ NB + SER*   |  |  |  | | --- | --- | --- | | ***Scenario*** | ***2001 through early 2015 rules*** | ***New rules*** | | *Major modification* | *2001/2015 New Source Review* | *Type A State New Source Review* | | *No major modification* | *Plant Site Emission Limit rule* | *Type B State New Source Review* |   *As can be seen in the tables above, all scenarios that were subject to the Plant Site Emission Limit rule will be subject to Type B State New Source Review under the new rules, and most scenarios that were subject to 2001/2015 New Source Review will be subject to Major New Source Review under the new rules. However, there is one scenario above that was subject to 2001/2015 New Source Review that will be subject to Type A State New Source Review under the new rules; this scenario is identified in the last table above.*  *Since Type A State New Source Review was previously covered under 2001/2015 New Source Review, this part of the program was formerly a part of major new source review but is now a part of minor new source review. Under the former rules, certain other rules were linked to 2001/2015 New Source Review, such as the ability to increase a source’s netting basis.*  *DEQ’s intent in this rulemaking was to maintain program continuity and Type A State New Source Review was defined for this purpose. The Type A State New Source Review program is characterized as follows:*   * *it is derived from the 2001/2015 New Source Review program for nonattainment and maintenance areas for sources with emissions from the SER to 99 tons per year;* * *subject sources propose to make a major modification;* * *subject sources are required to perform a Best Available Control Technology analysis; and* * *subject sources can increase their netting basis by a Type A State New Source Review permit action.*   *However, under State New Source Review the state is not bound by the federal major new source review program and therefore has somewhat more flexibility to change the requirements.* |
| 6.2 | DEQ has added unnecessary complexity to the new source review process without any proportional environmental benefit. The majority of the changes were never discussed with the fiscal impacts advisory committee or otherwise. The commenter suggests that this part of the rule be separated from the remainder and undergo a public stakeholder discussion process prior to reproposal.  DEQ received comments in this category from commenters 2, 3, 4, 7, 12, 20, 41, 42, 44, 46, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ acknowledges that the revised new source review program appears to be, and in some respects is, more complex; however, DEQ has determined that the changes are necessary and environmentally beneficial. The factors that led to a more complex set of rules are:*   * *development and inclusion of the new sustainment and reattainment areas; and* * *changing the major new source review threshold from the SER to 100 tons per year;* * *a recent court ruling to the effect that demonstrating a source’s PM2.5 impacts were less than the SIL was not sufficient to ensure no new violation of a National Ambient Air Quality Standards, and DEQ’s view that this ruling should be viewed as applying to all criteria pollutants.*   *Developing the new sustainment and reattainment areas added complexity since rules had to be written for these two new areas. However, the new requirements are all based on existing requirements.*  *Changing the major New Source Review threshold also added a degree of complexity to the rules. Prior to changing the major New Source Review threshold, 2001/2015 New Source Review applied to sources that emitted the nonattainment or maintenance pollutant at the SER or more in a nonattainment or maintenance area.*  *DEQ acknowledges that some requirements in the proposed rules were inadvertently made more complex. Based on comments received, DEQ has revised the rules to eliminate those unintentional changes. Specifically, OAR 340-224-0030 and -0038, as proposed, would have applied to Major New Source Review, Type A State New Source Review and Type B State New Source Review. These rules formerly applied only to 2001/2015 New Source Review, not to sources subject only to the Plant Site Emission Limit rule. These rules have been revised so they apply only to major New Source Review and Type A State New Source Review.*  *DEQ disagrees with the comment that the majority of the changes were never discussed with the fiscal impacts advisory committee. In January 2014, DEQ provided the fiscal advisory committee and interested parties the Notice of Proposed Rulemaking, a draft copy of the proposed rules (which included the proposed changes to the New Source Review program), the list of questions required to be answered by the committee, and a summary of the proposed changes to the opacity and grain loading standards. In addition, DEQ prepared a presentation on the portion of the proposed rules that would have fiscal impacts: the proposed opacity and grain loading standards having the largest fiscal impact and the proposed changes to categorically insignificant activities and the New Source Review having minimal fiscal impact.*  *Stakeholder meetings were held in Portland, Pendleton, Eugene and Medford in August to discuss preliminary rulemaking concepts. Public hearings were held in Portland, Pendleton, Bend, Eugene, and Medford with an informational session held before the hearing. Given the extended length of the comment period, thirteen weeks instead of 30 days, adequate time has been provided for review of the proposed rules. Therefore separate stakeholder meetings and reproposal are not necessary.*  *DEQ agrees with some of the comments and changed the proposed rules in response to this comment.* |
| 6.3 | DEQ should revise OAR 340-224-0010(2) so that it does not require that State New Source Review sources have to comply with OAR 340-224-0038. OAR 340-224-0038 requires that a source subject to New Source Review assess secondary emissions. This requirement has never been imposed on minor New Source Review permittees before and it is a significant increase in stringency.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter and changed the proposed rules so that OAR 340-224-0038 would apply only to Type A State New Source Review and Major New Source Review construction approvals, which are the sources that the rule currently covers.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 6.4 | The proposed rule language does not appropriately treat sources that are “federal majors” for other pollutants. The Supreme Court decision, as well as EPA’s July 24, 2014 guidance, are clear that a source should only be subject to Prevention of Significant Deterioration if it triggers Prevention of Significant Deterioration for another pollutant. The Prevention of Significant Deterioration application need only address Best Available Control Technology for greenhouse gases. However, the proposed language in OAR 340-224-0010(5)(b) goes well beyond this requirement. As proposed, a source that is a Federal Major Source for another pollutant would become subject to Prevention of Significant Deterioration if it has an emissions increase of 75,000 tons per year CO2e over the netting basis even if it was not seeking any change in its non-GHG emissions. DEQ should clarify that in order for greenhouse gases to be regulated under OAR 340-224-0010(5)(b), the source must be a Federal Major Source for a non-GHG pollutant, trigger Prevention of Significant Deterioration for a non-Prevention of Significant Deterioration pollutant, and as a result of the current project exceed the GHG netting basis by 75,000 tons per year CO2e or more.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with commenters and has revised the GHG Prevention of Significant Deterioration applicability criteria in OAR 340-224-0010 to require GHG Best Available Control Technology only if the source in question is a federal major source, which excludes greenhouse gases; is subject to Prevention of Significant Deterioration for another pollutant; has an increase in greenhouse gas emissions more than or equal to the SER over the netting basis; and has a major modification for greenhouse gases.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 6.5 | DEQ has proposed to revise some of the rules in OAR 340-224 to make references to “designated areas.” DEQ also proposes to add a definition to OAR 340-200-0020 that would define a designated area as practically any place on land in the State of Oregon. This definition creates significant drafting issues in division 224. DEQ should carefully scrutinize its use of the term “designated area” and not extend net air quality benefit requirements to attainment or unclassified areas.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *The net air quality benefit does not apply in attainment or unclassified areas. The requirement for sources impacting an attainment area is to demonstrate compliance with National Ambient Air Quality Standards and Prevention of Significant Deterioration increments, despite the use of the phrase “net air quality benefit” in the first part of the rule. However, DEQ finds that this phrase is confusing and unnecessary and proposes to delete it. DEQ notes that these rules are used in OAR 340 division 224, rules 0050, 0060, 0070, 0245, 0250, 0260 and 0270, and has made this change to each.*  *DEQ did not change the proposed rules in response to this comment.* |
| 6.6 | DEQ should remove the proposed requirement to send both State New Source Review permit applications and major NRS applications to EPA. Experience shows that EPA is not interested in receiving New Source Review applications as EPA has no involvement with the implementation of Oregon’s SIP approved Prevention of Significant Deterioration, Maintenance and nonattainment New Source Review programs.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  DEQ should revise its rule requiring notification of EPA of permit applications subject to New Source Review to render it enforceable. History has demonstrated that permit applicants fail to submit a copy of the New Source Review permit application directly to EPA, without consequence. DEQ should revise the application forms for New Source Review permit actions or change the rule. DEQ also committed to notifying EPA by separate email or letter for future applications subject to New Source Review.  DEQ received comments in this category from commenter 40 listed in the *Commenter section* below.  Response:  *DEQ agrees with some of the comments and has revised OAR 340-216-0040(7) to clarify that a copy of an application subject to Major NSR or Type A State NSR under OAR 340 division 224 must also be sent to EPA. DEQ also determined the most effective way to ensure that applicants submit a copy of Major New Source Review permit applications to EPA is to add this requirement to the permit application directions and forms.*  *DEQ agrees with some of the commenters and changed the proposed rules in response to this comment.* |
| 6.7 | DEQ should delete the proposed requirement requiring a source seeking a first extension must update its control technology analysis. According to EPA, redoing or reviewing the Best Available Control Technology analysis should not be necessary for the first extension request. Pollution control technologies are unlikely to be available within the first 18-month period. The commenter also requests that the payment requirement be changed to simple technical permit modification fee for the first extension period since there is no air quality analysis involved.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  The commenter recommends that for the first extension, the source also be required to review the original Lowest Achievable Emission Rate or Best Available Control Technology analysis to determine if lower emission limits are feasible. For both a first and a second extension, the commenter recommends the source be required to evaluate Lowest Achievable Emission Rate or Best Available Control Technology for any pollutants with National Ambient Air Quality Standards that have been developed since the original application was submitted. The commenter recommends the rules require DEQ to notify Federal Land Managers about requests for permit extensions.  DEQ received comments in this category from commenter 39)  Response:  *The 01/31/14 EPA guidance on extensions of Prevention of Significant Deterioration permits states that the first permit extension request should include a detailed justification of why the source cannot commence construction within the initial 18-month deadline. For example, relevant factors for this justification could include ongoing litigation over the Prevention of Significant Deterioration permit, natural disasters that directly affect the facility, significant or unusual economic impediments (including inability to secure financial resources necessary to commence construction) and/or delays in obtaining other required permits. Improvements in pollution control technology for criteria pollutants have not been occurring as rapidly as was anticipated at the time of the earlier draft EPA policies on permit extensions. Therefore, EPA guidance does not recommend review or redo of substantive permit analyses such as BACT, air quality impacts analysis or PSD increment consumption analyses for a first permit extension request.*  *A request for a second extension of the commencement of construction deadline should include a substantive re-analysis and update of Prevention of Significant Deterioration requirements. Generally, the benefits of conducting an updated substantive review of the PSD requirements after 36 months from the initial issuance of the PSD permit would outweigh the considerations that favor an initial extension without such analysis. While the EPA's experience is that pollution control technology for criteria pollutants has not been advancing at the same rate that it once was, the EPA determined that it is more likely that technology and air quality considerations will become outdated when construction does not begin until36 months or longer after the issuance of a PSD permit. Therefore, when a second extension of the deadline for commencing construction is requested, agencies should evaluate on a case by-case basis whether a second permit extension is justified. In some cases, the permittee should be asked to apply for a new PSD permit rather than conduct its review through a permit extension proceeding.*  *Based on this guidance, DEQ has changed the proposed language on extensions and mirrors the EPA guidance. DEQ also changed the payment requirement to a simple technical permit modification fee for the first extension period since there is no air quality analysis involved.*  *DEQ agrees with some of the commenters and changed the proposed rule as some of the commenters suggested.* |
| 6.8 | Adding the 18 month construction deadline to permits other than major New Source Review permits is a significant expansion of the program, making Oregon less attractive to businesses. DEQ should retain the current approach where the 18 month clock in OAR 340-224-0030(3) is limited to sources permitted under major New Source Review.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter and changed the proposed rules so that OAR 340-224-0030(3) applies only to Type A State New Source Review and Major New Source Review construction approvals, which are the sources that the rule currently covers.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 6.9 | OAR 340-224-0030(4) would require halting construction until a revised permit is issued for any changes to an approved project. Because permit application and air quality analysis are often performed in advance of exact equipment specifications and purchase, and site conditions may force changes to the final design, minor changes to the construction are to be expected. In order for a project to need to halt construction, the effect on the air quality analysis should have to be significant and it should have to be deleterious. DEQ should revise the language to read “A change that would significantly affect the air quality analysis such that impacts are materially increased at more than a de minimis number of receptors.”  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter that only changes that would negatively affect the air quality analysis are those that should potentially halt construction. The language suggested by the commenter contains terms that are not defined, such as “significantly affect,” “materially increased,” and “de minimis number.” DEQ changed the proposed rule from “A change that would affect the air quality analysis” to “A change that would increase air quality impacts” in response to the comment.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 6.10 | DEQ should not adopt any changes to the current definition of major modification. DEQ is proposing to change the definition to require that sources perform a netting basis to potential to emit comparison to determine the emissions increases due to physical changes and changes in method of operation.   * This significant change ignores the clear wording of the existing rule that the emissions increases must be “due to” the changes. The emissions increase due to any change that occurs post-baseline is the increase in potential to emit, not the difference between baseline and potential to emit. * The rule requires that a source be able to calculate each “unit’s portion of the netting basis,” something few sources will be able to do. * The definition specifies that the categorically insignificant emissions must be included in the calculations. However, categorically insignificant activities do not have a netting basis.   DEQ received comments in this category from commenters 2, 3, 4, 7, 12, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees in part with the comment. DEQ reviewed the proposed rule language and the existing language in the definition of major modification, and also discussed this rule with EPA Region 10 staff.*  *Region 10 staff informed DEQ that the rule must be clear on how emissions increases are calculated. The original proposal was most likely an attempt to provide the necessary clarity. However, upon review DEQ agrees that the proposal was problematic, as indicated by commenters.*  *DEQ first notes that there are two tests for a major modification. The two tests are:*  *Test 1: A PSEL or actual emissions that exceed the netting basis by an amount that is equal to or greater than the SER; and*  *Test 2: The accumulation of emission increases due to all physical changes and changes in the method of operation since the later of the dates in subsections (1)(a) through (1)(c) above (i.e. the baseline period or the most recent NSR permitting action that was capable of revising netting basis), as applicable for each pollutant, is equal to or greater than the SER.*  *An important distinction between these two tests is that Test 1 allows for emissions netting, while Test 2 only considers “emission increases”. For example, if an old unit is replaced with a new unit that has exactly the same emissions, the net change to the PSEL (Test 1) is zero, but for Test 2 the new unit is considered to have an emission increase due to a physical change and the increase is counted, while the emission decrease from the old unit is not counted. In addition, Test 1 (per the rule language) depends on the source’s netting basis, while Test 2 does not. As a practical matter and under certain circumstances, Test 2 may consider the portion of the netting basis attributable to an emissions unit, but the rule makes no mention of netting basis.*  *The first thing to consider is how to quantify a unit’s post change emissions. DEQ determined that this is relatively simple and can be assumed to equal the unit’s potential to emit, recalling that potential to emit is either the unit’s capacity or can be limited by an enforceable permit condition. The source may choose to permit the unit at its capacity, or may request a limit on the unit’s emissions; both of these cases are covered by the term “potential to emit”. A source may also choose to have a PSEL that is less than the sum of the capacities of all of its units, without requesting limits on specific units. Since the source can operate its units as it chooses, provided only that the emissions do not exceed the PSEL, the PSEL cannot be assumed to limit any specific unit’s potential to emit (unless the source has only one emissions unit). This latter situation is also covered by the term “potential to emit” since the term defaults to capacity in the absence of an enforceable limit on the unit’s emissions. Thus, in most if not all cases, a unit’s post change emissions will be its potential to emit.*  *For the purpose of this discussion, the following terms are used:*   * *A unit’s “portion of the baseline emission rate” means the portion of a source’s baseline emission rate that is attributed to the unit in question.* * *A unit’s “portion of the netting basis” means the portion of a source’s netting basis that is attributed to the unit in question. In some cases it will not be possible to determine a unit’s portion of the netting basis.* * *“Change” broadly refers to the action a source proposes to take that may trigger NSR, including physical changes and changes in the method of operation.* * *“Potential to emit” has the meaning given in OAR 340-200-0020; in particular, potential to emit takes enforceable limitations into account.* * *“Capacity” has the meaning given in OAR 340-200-0020: “the maximum regulated pollutant emissions from a stationary source under its physical and operational design”.*   *The first thing to consider is how to quantify a unit’s post change emissions. DEQ determined this is relatively simple and the post change emissions can be assumed to equal the unit’s potential to emit, recalling that potential to emit is either the unit’s capacity or can be limited by an enforceable permit condition. The source may choose to permit the unit at its capacity, or may request a limit on the unit’s emissions; both of these cases are covered by the term “potential to emit”. A source may also choose to have a PSEL that is less than the sum of the capacities of all of its units, without requesting limits on specific units. Since the source can operate its units as it chooses, provided only that the emissions do not exceed the PSEL, the PSEL cannot be assumed to limit any specific unit’s potential to emit (unless the source has only one emissions unit). This latter situation is also covered by the term “potential to emit” since the term defaults to capacity in the absence of an enforceable limit on the unit’s emissions. Thus, in most if not all cases, a unit’s post change emissions will be its potential to emit.*  *Quantifying a unit’s pre-change emissions is less straightforward. To do this, DEQ considered the following scenarios:*  *Scenario 1:*   * *A new unit, installed after the baseline period or the most recent NSR permitting action.*   *For this scenario, the unit’s pre-change emissions equal zero.*  *Scenario 2:*   * *A unit that undertakes a physical change or change in the method of operation,and was included in a prior NSR permitting action.*   *In this scenario, the pre-change emissions are considered to be the emission rate approved in the prior NSR permitting action.*  *Scenario 3:*   * *A unit that undertakes a physical change or change in the method of operation and existed during the baseline period.*   *In this scenario, the pre-change emissions are considered to be the unit’s capacity during the baseline emission period.*  *DEQ recognizes that the baseline period for most pollutants is now 36 or more years in the past, but most if not all permit review reports for sources with baseline emissions include an inventory of the units included in the baseline period. Determining a unit’s capacity during the baseline period may be more difficult, but this approach is a consequence of Oregon’s fixed baseline period and sources are advised to keep records that will provide the necessary information if and when it becomes necessary.*  *Scenario 4:*   * *A unit that existed during the baseline period, and is not undertaking a physical change or change in the method of operation, and is making increased use of existing capacity in association with another physical change or change in the method of operation elsewhere in the facility.*   *In this case the question is “what part of the emission increase can (or conversely, cannot) be attributed to the other physical change or change in the method of operation elsewhere in the facility”? To help answer this question, DEQ notes the following from DEQ’s and EPA’s rules:*  *OAR 340-200-0020(71), the definition of “major modification” includes:*  *(e) The following are not considered major modifications:*  *(A) Except as provided in subsection (c) of this section,* ***proposed increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit*** *and would not involve a physical change or change in method of operation in the source (emphasis added);*  *OAR 340-222-0010, Policy, reads:*  *The Commission recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of permit holders. However, except as needed to protect ambient air quality standards, prevention of significant deterioration increments and visibility,* ***the Commission does not intend to: limit the use of existing production capacity of any air quality permittee; cause any undue hardship or expense to any permittee who wishes to use existing unused productive capacity****; or create inequity within any class of permittees subject to specific industrial standards that are based on emissions related to production (emphasis added); and*  *In 40 CFR 51.165(a)(1)(xxviii), definition of “Projected actual emissions”, (B)(3) states that* ***projected actual emissions “excludes that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions*** *under paragraph (a)(1)(xxxv) of this section and that are also unrelated to the particular project, including any increased utilization due to product demand growth.”*  *With respect to EPA’s definition of projected actual emissions, DEQ notes the following:*   * *EPA’s program uses a different baseline period (i.e. “the consecutive 24-month period used to establish the baseline actual emissions”), whereas DEQ uses a fixed baseline period; in both cases, the baseline period is used to establish the pre-change emission rate.* * *EPA allows consideration of a unit’s pre-change capacity by not counting it as part of the unit’s post-change emissions. Since the emission increase is equal to the post-change emissions minus the pre-change emissions, it is mathematically equivalent to setting the unit’s pre-change emissions equal to its capacity.*   *In the case where a facility makes increased use of a unit in the absence of any other physical change or change in the method of operation, such increases are clearly not included when determining if a major modification is being made. However, two of the rules cited above distinguish between increased use in the absence of any other physical change or change in the method of operation and increased use in association with some other physical change or change in the method of operation:*  *OAR 340-200-0020(71), the definition of “major modification” includes:*  *(e) The following are not considered major modifications:*  *(A) Except as provided in subsection (c) of this section, proposed increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit* ***and would not involve a physical change or change in method of operation in the source*** *(emphasis added); and*  *In 40 CFR 51.165(a)(1)(xxviii), definition of “Projected actual emissions”, (B)(3) states that projected actual emissions “excludes that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under paragraph (a)(1)(xxxv) of this section* ***and that are also unrelated to the particular project****, including any increased utilization due to product demand growth.”*  *Thus we return to the question at hand: “what part of the emission increase can (or conversely, cannot) be attributed to the other physical change or change in the method of operation elsewhere in the facility”? In the context of this question, a physical change or change in the method of operation may be made for two reasons:*  *First, to increase the production capacity of a facility; or*  *Second, to make necessary changes, such as replacing out of date equipment, without increasing the production capacity of a facility.*  *These two situations can be restated as follows:*  *First, the physical change or change in the method of operation results in an increase in the facility’s production capacity (and hence emissions); or*  *Second, the physical change or change in the method of operation does not result in an increase in the facility’s production capacity (and hence emissions).*  *In the first case, the facility had some maximum pre-change production rate. To support this production rate, the unit in question did not have to be operated at its capacity; in effect, the facility’s maximum production capacity served to limit the unit’s potential to emit. However, absent the physical change or change in the method of operation that results in an increase in the facility’s production capacity, emissions up to that level would simply be making use of existing capacity and would not count toward a major modification. When we add the physical change or change in the method of operation that results in an increase in the facility’s production capacity, it is clear that the reason for the unit’s emissions increase above the previous level is to support the facility’s increased production capacity.*  *In view of the above, the pre-change emissions equal the unit’s emission rate when operated at the maximum annual rate needed to support the facility’s maximum annual production rate achievable before the change.*  *In the second case the physical change or change in the method of operation does not result in an increase in the facility’s production capacity. In this case, there are two possibilities:*  *the facility’s maximum production capacity still serves to limit the unit’s potential to emit at the same level as before the change; or*  *the physical change or change in the method of operation results in an increase in the unit’s emissions, such as when one of a pair of boilers is shut down and the remaining boiler is operated at a higher rate to supply the facility’s needs.*  *The first possibility is straightforward: there is no emission increase from the unit in question. The second possibility is analogous to increasing production by making increased use of existing capacity and in DEQ’s view this increase is not counted toward a major modification.*  *For this scenario, there are two results:*  *If a unit does not undertake a physical change or change in the method of operation, but there is a physical change or change in the method of operation elsewhere in the facility that results in increased production capacity, the unit’s pre-change emissions equal the unit’s emission rate when operated at the maximum annual rate needed to support the facility’s maximum annual production rate achievable before the change; or*  *If a unit does not undertake a physical change or change in the method of operation, but there is a physical change or change in the method of operation elsewhere in the facility that does not result in increased production capacity, the unit’s emission increase (if any) does not count toward a major modification.*  *Scenario 5:*   * *A situation not considered above.*   *DEQ has attempted to consider all reasonable possibilities, but situations may arise that are not adequately addressed by the scenarios above. In this case, flexibility is required to be able approve other methods of determining a unit’s pre-change emissions. DEQ has therefore proposed that it may approve other methods if a situation is not addressed in the rules.*  *While reviewing the federal regulations as part of this response, it was noted that a portion of the definition of “Baseline actual emissions”, 40 CFR 51.165(a)(1)(xxxv)(B) should be included in DEQ’s rules, revised as necessary to fit Oregon’s program. The proposed new section reads:*  *The pre-change emission rate will be reduced by any emission reductions required under a rule, order, or permit condition issued by the EQC or DEQ and required by the SIP or used to avoid any state, e.g., NSR, or federal requirements, e.g., NSPS, NESHAP, that took effect before either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by DEQ for a permit action subject to this division, whichever is earlier.*  *DEQ has revised the rule to include the concepts discussed above.* |
| 6.11 | The proposed modeling requirements for State New Source Review sources are too costly and complex for sources not triggering the federal program where modeling and extensive analysis of impacts is warranted. The revisions proposed to create a complex and expensive minor New Source Review program in Oregon.  DEQ received comments in this category from commenter 47 listed in the *Commenter section* below.  Response:  *DEQ acknowledges that the rules frequently refer readers to other sections, but a deliberate effort was made in this rulemaking to keep such referencing to a minimum. Thus, the proposed State New Source Review sections in OAR 340 division 224 are indeed somewhat duplicative, but this was done to keep as many requirements in one place as possible. The structure of each State New Source Review rule section also follows the structure of the 2001/2015 New Source Review rules.*  *In many cases the modeling requirements for State New Source Review are a carryover from the 2001 though early 2015 rules. For example, under the 2001/2015 version of OAR 340-222-0041(3), a source located in an attainment area with an emission increase of the SER or more over the netting basis was subject to the following:*  *(C) If located within an attainment, maintenance, or unclassifiable area, the applicant must demonstrate compliance with the National Ambient Air Quality Standards and Prevention of Significant Deterioration increments by conducting an air quality analysis in accordance with OAR 340-225-0050(1) and (2) and 340-225-0060.*  *DEQ acknowledges, however, that the requirements for sources to examine their impacts on other designated areas have been expanded. These requirements are not entirely new and in some cases are carry-overs from the 2001/2015 rules. In this rulemaking, DEQ considered the existing 2001/2015 requirements for sources impacting other areas in light of the Supreme Court ruling discussed in the response to comment 1.4 that the Significant Impact Level is not sufficient to guarantee no new National Ambient Air Quality Standards violation will occur. DEQ determined that all sources subject to Major or State New Source Review should ensure that their emissions do not cause an exceedance of a National Ambient Air Quality Standards or Prevention of Significant Deterioration increment in attainment areas.*  *DEQ did not change the proposed rules in response to this comment.* |
| 6.12 | The Maintenance New Source Review provisions contain several alternatives to providing offsets and having to demonstrate a net air quality benefit, including an exemption for a source proposing a modification in a CO maintenance area or PM10 maintenance area. DEQ has proposed to remove those provisions from OAR 340-224-0060, move the modeling thresholds to OAR 340-202-0225 and to re-characterize them as “limits” for maintenance areas. Modeling thresholds are not values that a source demonstrates ongoing compliance with--doing so would be impossible, as one cannot measure the source’s concentrations in the environment in isolation. Requiring that the source “comply with the limits in OAR 340-202-0225” strongly suggests that there is an ongoing periodic monitoring component. The commenter fails to see the benefit in moving these thresholds to division 202 and strongly objects to characterizing them as limits.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees that the word “limits” should not be used in reference to the impact levels specified in OAR 340-202-0225, and has replaced the word “limits” with “impact levels” in all places that reference these values. These impact levels were moved from OAR 340-224-0060 to OAR 340 division 202 because division 202 is already the location for other values that are relevant to New Source Review, such as Prevention of Significant Deterioration increments, and all such values should be found in one place.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 6.13 | The pre-construction monitoring requirements contain an internal inconsistency. OAR 340-224-0070(1)(a)(A) requires that a source submit ambient monitoring data for each regulated pollutant subject to this rule. However, OAR 340-224-0070(1)(a)(A)(i) says that the analysis must contain continuous monitoring data “for any regulated pollutant that may be emitted by the source.” Applying this literally, a source could trigger Prevention of Significant Deterioration for PM10 and be required to perform ambient monitoring for greenhouse gases or nitrogen oxides. The intent of the rule is to say that a source can be required to conduct ambient monitoring for any regulated air pollutant subject to the rule and OAR 340-224-0070(1)(a)(A)(i) be revised accordingly.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 6.14 | DEQ has streamlined the applicability language for New Source Review and Best Available Control Technology with the intent of clarifying that thesame applicability test applies for both federal major New Source Review and Best Available Control Technology.  One Best Available Control Technology-related provision has been identified, however, where different language is used to describe applicability, which could lead to confusion. In OAR 340-224-0070(2)(a), the applicability test for when Best Available Control Technology applies is appropriately tied to the test in OAR 340-224-0025(2)(a)(B). The exemption to applying Best Available Control Technology in OAR 340-224-0070(2)(d), however, uses the term “potential to emit” and in subparagraph (2)(d)(B) it is unclear what should be compared to 10% of the Significant Emission Rate. To avoid confusion, the exemption in OAR 340-224-0070(2)(d) should also refer to the applicability test referenced in OAR 340-224-0025(2)(a)(B).  DEQ received comments in this category from commenter 52 listed in the *Commenter section* below.  Response:  *DEQ agrees with this comment and proposes revision to OAR 340-224-0070(2)(d) as follows:*  *(d) Modifications to individual emissions units that have an emission increase, calculated per OAR 340-224-0025(2)(a)(B), that is less than 10 percent of the SER are exempt from this section unless:*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 6.15 | The new language in revisions to OAR 340-224-0070(3)(a)(B), 340-224-0245(3), 340-224-0250(2)(a), 340-224-0260(2)(c), 340-224-0270(1)(c) states “if the source has emissions that are equal to or greater than…” This language is not clear as to what is meant by the term “emissions.”  DEQ intends this reference to “emissions” to mean “potential to emit” and the term “potential to emit” should therefore be used in place of the more general term “emissions.”  DEQ received comments in this category from commenter 52 listed in the *Commenter section* below.  Response:  *DEQ agrees with this comment and proposes changing the referenced language as follows:*  *“The owner or operator of a federal major source must comply with OAR 340-225-0050(4) and 340-225-0070.”*  *The term federal major source has been in use since 2001 and is defined as:*  *(a) A source with potential to emit:*  *(A) 100 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in OAR 340 division 244 if in a source category listed in subsection (c), or*  *(B) 250 tons per year or more of any individual regulated pollutant, excluding greenhouse gases and hazardous air pollutants listed in OAR 340 division 244, if not in a source category listed in subsection (c).*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 6.16 | It is unclear whether a source subject to Major New Source Review in reattainment area would need to meet both nonattainment and reattainment requirements for a pollutant designated as reattainment. The regulations could potentially be read as only requiring a federal major new source of a reattainment pollutant to meet the requirements of the reattainment section, a clear violation of the Clean Air Act because the requirements of that division bear no semblance to the requirements of Nonattainment New Source Review in the Clean Air Act.  DEQ received comments in this category from commenter 40 listed in the *Commenter section* below.  Response:  *DEQ determined the rules pertaining to Major New Source Review in a reattainment area are clear. The Major New Source Review reattainment area rule states that source subject to Major New Source Review in a reattainment area must meet the requirements for a nonattainment area, treating the reattainment pollutant as a nonattainment pollutant.*  *DEQ did not change the proposed rules in response to this comment.* |
| 6.17 | The proposed revisions to the rules appear to be missing language related to the use of priority offsets. Klamath Falls priority offsets should be identified in OAR 340-204-0320. OAR 340-224-0510(4) requires that emission reductions used as offsets be equivalent to the emissions being offset in terms of short term, seasonal, and yearly time periods to mitigate the effects of the proposed emissions. Because woodstoves are only operated seasonally, offsets generated from their retirement arguably would not meet this requirement for an industrial source operating year round. DEQ should revise the rules to clarify that this is not an impediment to the use of wood stove derived offsets.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees in part with the commenters.*  *With respect to the comment that offsets created by the retirement of uncertified woodstoves emission may arguably not meet the requirement that they be equivalent to the emissions being offset in terms of short term, seasonal, and yearly time periods, DEQ notes that OAR 340-240-0550 provides a basis for approving woodstove offsets; however, this rule applies only to the Klamath Falls nonattainment area. DEQ has revised this rule to apply to any area when the area rules refer to it. DEQ has also revised OAR 340-240-0560 so that rule will also apply to any area when the area rules refer to it.*  *DEQ acknowledges that these two rules are not well-located and many readers may not think to look for them in OAR 340 division 240. DEQ has attempted to address this problem by ensuring that all rules that rely on them include clear references to them. These rules may be relocated in a future rulemaking, but DEQ is unable to do that at this time.*  *DEQ has also found that the proposed rules failed to address priority sources for other designated areas, as well the values to be used for priority source offsets in Lakeview.*  *Commenters suggested that DEQ identify priority sources for the Klamath Falls nonattainment area. With respect to this comment, DEQ did not consider “looking back” to determine if priority sources should be identified for existing designated areas. Identifying priority sources for areas other than Lakeview would require a more in-depth review than time allows in this rulemaking and therefore DEQ will not identify priority sources for other areas in this rulemaking. However, DEQ notes that the original rule proposal included OAR 340-204-0320(2), which allows DEQ to identify priority sources during a specific permit action based on the sources addressed in the emission reduction strategies that were included in the attainment or maintenance plans for the area. This provision can be used in any area, provided that the applicable plan reasonably makes the case to identify priority sources.*  *With respect to the Lakeview sustainment area, DEQ determined it has correctly identified uncertified residential wood fuel-fired devices as the priority source. However, DEQ failed to identify the annual emission reduction offset values for residential wood-fired devices in Lakeview.*  *DEQ notes that annual emission reduction offset values for residential wood-fired devices have been identified for Klamath Falls in OAR 340-240-0560. DEQ compared the winter monthly average low temperatures in Klamath Falls and Lakeview, and notes that the average monthly low temperatures in Lakeview are generally somewhat lower than the monthly average low temperatures in Klamath Falls. This suggests that households in Lakeview that heat with wood fuel are likely to use somewhat more fuel, or at least not less fuel, than similar households in Klamath Falls. DEQ therefore concludes that the annual emission reduction offset values for residential wood-fired devices in Klamath Falls can reasonably and conservatively be applied in Lakeview as well.*  *Comparison of monthly average low temperatures (degrees F) in Klamath Falls and Lakeview (source: Wikipedia)*   |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | |  | *Oct* | *Nov* | *Dec* | *Jan* | *Feb* | *Mar* | | *Klamath Falls* | *35.4* | *28.2* | *22.7* | *20.6* | *24.5* | *28.1* | | *Lakeview* | *33.1* | *26.0* | *20.6* | *20.6* | *24.0* | *27.8* |   *DEQ has therefore revised OAR 340-240-0560 to allow the use of the Klamath Falls annual emission reduction offset values for residential wood-fired devices in other areas when referred to this rule, and OAR 340-268-0030(f) to specify that a source must use the procedures in OAR 340-240-0560 to calculate the emission reductions from residential wood fuel-fired devices in Klamath Falls or Lakeview.*  *DEQ has revised OAR 340-224-0510(4) to state that offsets must be equivalent to the emissions being offset in terms of short term, seasonal, and yearly time periods to mitigate the effects of the proposed emissions, or must be from the designated area-specific priority sources identified in OAR 340-204-0320; or they must be allowed under OAR 340 division 240.*  *DEQ agrees with the commenter and changed the proposed rules in response to this comment.* |
| 6.18 | DEQ should keep its current regulations on greenhouse gases for Prevention of Significant Deterioration and Title V. The Supreme Court’s decision in UARG does not affect Oregon’s ability to regulate sources based on greenhouse gas emissions. DEQ can and should regulate greenhouse gas emissions under its state law authority.  DEQ received comments in this category from commenters 9, 10, 11, 14, 15, 16, 18, 23, 25, 26, 27, 30, 33, 34, 37, 45 and 51 listed in the *Commenter section* below.  DEQ should revise its rules to reflect the current status of the law, i.e., to clarify that sources cannot trigger Prevention of Significant Deterioration or Title V permitting based solely on their GHG emissions.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 40, 41, 42, 44, 47, 48, 56 and 58 listed in the *Commenter section* below.  Response:  *In Utility Air Regulatory Group vs. EPA, the Supreme Court came to the following conclusions in regard to permitting greenhouse gas emissions:*   1. *The Clean Air Act “neither compels nor permits” EPA to require major emitting facilities to obtain Prevention of Significant Deterioration and Title V permits “on the sole basis” of their greenhouse gas emissions.* 2. *Thus, EPA need not “tailor” the Act’s major-source thresholds to avoid an administrative debacle that would result from requiring permits of small, non-industrial facilities, millions of which emit enough CO2 to qualify as “major” sources.* 3. *More importantly, EPA’s Tailoring Rule, which rewrote the “major” source applicability thresholds from 250/100 tons per year, as specified in the statute, to 100,000 tons per year, is “impermissible” — an exercise of power “beyond the bounds” of the agency’s “statutory authority.”* 4. *EPA “reasonably interpreted” the Act to require large industrial facilities already subject to Prevention of Significant Deterioration for conventional air pollutants to comply with “best available control technology” standards for greenhouse gases.* 5. *Although Best Available Control Technology for CO2 could require some energy efficiency improvements, EPA’s Prevention of Significant Deterioration and Title V Permitting Guidance for Greenhouse Gases also contemplates other, “more traditional end-of-stack Best Available Control Technology technologies.”* 6. *The Court’s overall conclusion: “EPA’s decision to require Best Available Control Technology for greenhouse gases emitted by sources otherwise subject to Prevention of Significant Deterioration review is, as a general matter, a permissible interpretation of the statute.”*   *The following six Oregon facilities are the only known ones that have GHG emissions that exceed the current Oregon trigger level of 100,000 tons per year, but that do not emit any other regulated pollutants at levels that require Prevention of Significant Deterioration and Title V permitting. All these facilities are currently regulated under Air Contaminant Discharge Permits except for Owens Corning whose Title V permit was recently issued:*   | *Industry* | *Facility* | *Application Status* | | --- | --- | --- | | *Semiconductor manufacturer* | *Intel/Hillsboro and Aloha* | *Submitted Title V permit application, Prevention of Significant Deterioration application for greenhouse gases on hold based on temporary rule, Title V permit in process* | | *Semiconductor manufacturer* | *On Semiconductor/Gresham* | *Title V permit application for greenhouse gases on hold based on temporary rule* | | *Fertilizer and nitric acid manufacturing* | *Dyno Nobel/St. Helens* | *Submitted Title V permit application, , Title V permit in process* | | *Liquefied natural gas exporting* | *Oregon LNG/Warrenton* | *Submitted Prevention of Significant Deterioration permit application for greenhouse gases alone* | | *Ethanol production* | *Cascade Kelly Holdings/Clatskanie* | *Submitted Title V permit application, Title V permit in process* | | *Extruded polystyrene foam manufacturing* | *Owens Corning foam insulation plant/NE Portland-Troutdale* | *Submitted Title V permit application, Title V permit issued* |   *Based on this limited number of affected sources in Oregon, DEQ has decided to adopt rules to align with the Supreme Court decision for the following reasons:*  *Title V permits will not reduce emissions:*  *In 1990, Congress established an innovative program under Title V of the Clean Air Act Amendments. The operating permit program streamlines the way federal, state, tribal, and local authorities regulate air pollution by consolidating all air pollution control requirements into a single, comprehensive "operating permit" that covers all aspects of a source's year-to-year air pollution activities. The program is designed to make it easier for sources to understand and comply with control requirements, and results in improved air quality. Title V permits do not require any additional controls beyond what is already required. Therefore, requiring the above listed sources to obtain Title V permits will not reduce greenhouse gas emissions. The above listed sources will remain on Air Contaminant Discharge Permits that contain the same applicable requirements along with monitoring, recordkeeping and reporting requirements. Therefore, adopting rules to align with the Supreme Court decision not to require Title V permits on the basis of greenhouse gas emissions alone will have no effect on greenhouse gas emissions.*  *Only one of the above sources has triggered, and is therefore currently subject to, Prevention of Deterioration for Greenhouse Gases:*  *Under current Oregon rules, the Prevention of Significant Deterioration program is triggered when a new source will emit more than 100,000 tons per year of CO2e or when an existing source undergoes a qualifying modification and does or will emit CO2e at such threshold. Prevention of Significant Deterioration requires that these sources apply the Best Available Control Technology to control emissions. Best Available Control Technology for greenhouse gases is typically energy efficiency or carbon capture and storage for most processes that generate greenhouse gases since the use of add-on controls to reduce GHG emissions is not as well advanced as it is for most combustion-derived pollutants. Carbon capture and storage is prohibited in Oregon under the Underground Injection Control rules in OAR 340 division 044, eliminating geological sequestration as a Best Available Control Technology option.*  *Intel is currently the only source that would potentially be subject to Prevention of Significant Deterioration for greenhouse gases alone under existing rules. Intel emits perfluorocompounds, which are highly potent greenhouse gases. Perfluorocompounds are used in semiconductor manufacturing for plasma cleaning of chemical vapor deposition chambers and for plasma etching. With global warming potentials in the thousands, Perfluorocompounds absorb infrared radiation (i.e., heat), trap it in the atmosphere very effectively, are generally very stable chemicals and therefore possess atmospheric lifetimes from 264 to 50,000 years. Consequently, these gases will accumulate in the atmosphere and their effect on the climate will be felt by many future generations.*  *EPA has worked with the U.S. Semiconductor Industry Association in their voluntary efforts to reduce high global warming potential greenhouse gas emissions by following a pollution prevention strategy. As far back as 1996, Intel and the U.S. Semiconductor Industry Association formalized an early voluntary commitment for PFC reduction in a memorandum of understanding with EPA. Intel met the goal to reduce company-wide absolute PFC emissions 10% below 1995 levels by the year 2010 in spite of the fact that manufacturing volumes have increased roughly fourfold since 1995.*  *DEQ believes that requiring Intel to apply for a Prevention of Significant Deterioration permit would not reduce greenhouse gas emissions any further. Therefore, adopting rules to align with the Supreme Court decision not to require Prevention of Significant Deterioration permits on the basis of greenhouse gas emissions alone will not have an effect on greenhouse gas emissions.*  *Facilities that trigger New Source Review/Prevention of Significant Deterioration for pollutants other than greenhouse gases must evaluate whether they would also trigger Prevention of Significant Deterioration for greenhouse gases. If so, the facility would be required to do a Best Available Control Technology analysis for their industry category. Best Available Control Technology for a boiler triggering Prevention of Significant Deterioration for greenhouse gases may require process changes such as oxygen trim control, an economizer, or blowdown heat recovery to ensure the boiler is operating at optimal thermal efficiency to minimize emissions. For a landfill, Best Available Control Technology may require the capture of the landfill gas and venting to an on-site flare, use of the gas in on-site internal combustion engines to generate electricity, or treatment of the gas for delivery to a natural gas pipeline. A natural gas compressor station may propose air/fuel ratio controllers to minimize methane emissions, periodic inspection and maintenance of the compressor rod packing to determine when to replace packing, use of low-bleed gas-driven pneumatic controllers to reduce methane venting, or installation of a new flare which will handle natural emission during upsets and malfunctions as possibilities for Best Available Control Technology.*  *DEQ proposes rules to clarify that sources will not trigger Prevention of Significant Deterioration or Title V permitting based solely on their GHG emissions.*  *DEQ agrees with some of the commenters and changed the proposed rules in response to this comment.* |
| 6.19 | Greenhouse gas Plant Site Emission Limits serve no purpose for non-Federal Major Sources. As stated in OAR 340-222-0020(1), the purpose of Plant Site Emission Limits is to manage airshed capacity, not relevant to greenhouse gases. There was a benefit to having greenhouse gas Plant Site Emission Limits when greenhouse gases alone could subject a source to Prevention of Significant Deterioration. However, in the absence of this possibility, it makes far more sense to treat greenhouse gas Plant Site Emission Limits the same way that DEQ treats hazardous air pollutant Plant Site Emission Limits. This amendment should be added to the temporary rule and incorporated into the final rules.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *Since greenhouse gases can trigger Prevention of Significant Deterioration and Title V permitting requirements for “anyway” sources that trigger for other pollutants, GHG Plant Site Emission Limits are an important part of DEQ’s permitting program. Establishing accurate GHG baseline emission rates now with fairly recent data is critical for tracking Prevention of Significant Deterioration applicability. Hazardous air pollutants are not subject to the New Source Review/Prevention of Significant Deterioration program so HAP Plant Site Emission Limits are not comparable yardstick.*  *For smaller sources, including non-federal major sources, DEQ established generic Plant Site Emission Limits, which are set below the significant emission rate. If a source’s potential to emit is less than the SER, the generic Plant Site Emission Limits give the source more flexibility and also decrease DEQ’s workload. Sources that elect generic Plant Site Emission Limits also give up the ability to have a baseline emission rate, potentially causing the source to trigger Prevention of Significant Deterioration earlier than if it had a baseline.*  *DEQ did not change the proposed rules in response to this comment.* |
| 6.20 | The commenter strongly objects to DEQ proposal to permanently make biogenic CO2 a regulated air pollutant after July 20, 2014. The current definition of “greenhouse gas,” states that biogenic CO2 is not a GHG except to the extent required by federal law. Removing this language, therefore making biogenic CO2 permanently a GHG in Oregon could substantially impact many sources who rely on biomass for a significant percentage of their fuel. DEQ should do everything possible to encourage biomass combustion in order to address climate change concerns.  DEQ received comments in this category from commenters 2, 3, 4, 7, 12, 20, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *On July 20, 2011, EPA deferred for a period of three years the application of Title V and Prevention of Significant Deterioration permitting to biogenic CO2 emissions from bioenergy and other biogenic pollution-emitting facilities. Biogenic CO2 emissions are defined as emissions of CO2 from a stationary facility directly from the combustion or decomposition of biologically-based materials, such as CO2 generated from the biological decomposition of waste in landfills or CO2 derived from combustion of biological material including all types of wood and wood waste, forest residue, and agricultural material. During this three-year period, biogenic CO2 emissions did not count toward applicability of the Title V and Prevention of Significant Deterioration permitting programs. On July 12, 2013, the US Court of Appeals for the District of Columbia issued an opinion invalidating the 2011 EPA temporary deferral that exempted biogenic greenhouse gas sources from requirements to obtain a permit for those GHG emissions under the Clean Air Act. The DC Circuit ruled that EPA did not have authority to treat biogenic GHG emissions differently than other pollutant emissions for Prevention of Significant Deterioration and Title V permitting, but withheld issuing its final mandate vacating the rule pending the Supreme Court’s decision in the UARG case. EPA did not extend the three year rule deferral of biogenic CO2 emissions so the rule expired July 21, 2014. The EPA’s work regarding the biogenic CO2 assessment framework remains ongoing and is not directly impacted by the Supreme Court’s decision. Nonetheless, the EPA's current view is that the Supreme Court's decision effectively narrows the scope of the biogenic CO2 permitting issues that remain for the EPA to address. This is because, as described above, the EPA will no longer apply or enforce regulatory provisions requiring Prevention of Significant Deterioration or Title V permits for sources solely on the basis of their GHG emissions.*  *The current Oregon rule language saying that biogenic CO2 is only regulated to the extent required by federal law could be interpreted as prospective and not allowed under the Oregon constitution.*  *Facilities that used the deferral to determine that they were not subject to Title V permitting requirements will likely need to revisit their emission calculations and determine if a Title V permit is required. Going forward, all facilities will need to assess the total GHG emissions from future projects, including biogenic greenhouse gases in addition to other regulated pollutants to see if New Source Review/Prevention of Significant Deterioration or Title V permitting is triggered. If EPA adopts changes to federal rules regarding biogenic CO2 emissions, DEQ will evaluate the need for additional rulemaking at that time.*  *DEQ did not change the proposed rules in response to this comment.* |
| 6.21 | The commenter agrees that it is important to clarify that biogenic CO2 was exempt from May 1, 2011 through July 20, 2014.  DEQ received comments in this category from commenter 7 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter of the importance to maintain the exemption of biogenic CO2 emissions from the definition of greenhouse gases during the period from May 1, 2011 through July 20, 2014. During this time period, biogenic CO2 was not a regulated air pollutant and was not subject to the permitting requirements in divisions 216, 218, and 224. DEQ did not change the proposed rules in response to this comment.*  *DEQ agrees with commenter and changed the proposed rules in response to this comment.* |

| **Summary of Comments and DEQ Responses**  Category 7: Modernize methods allowed for holding public hearings and meetings | |
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|  | DEQ should not completely delete its procedures for informational and public hearings contained in OAR 340-209-0070. The proposed regulations provide no guidance on how informational meetings or public hearings would be conducted.  The 14 days notice before an informational hearing is not found elsewhere in DEQ’s regulations. DEQ should modify OAR 340-209-0030(3)(d)(B) to include a timing requirement for notice, the minimum information to be contained in a notice and who is notified. DEQ proposed regulations should continue to have physical meetings for public hearings.  DEQ should not allow modern technology to replace its public involvement process. Replacing hard copy and newspaper notification or physical public meetings poses a serious environmental justice concern. Many environmental justice communities that are most effected by air pollution are also least likely to have reliable access to the Internet. If DEQ shifts too much to the use of modern technology, it risks leaving many effected people unable to adequately participate.  DEQ received comments in this category from commenter 40 listed in the *Commenter section* below.  Response:  *The following is DEQ’s mission statement:*  *DEQ's mission is to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.  DEQ works collaboratively with Oregonians for a healthy, sustainable environment.*  *DEQ cannot work collaboratively with Oregonians without the public involvement process. Even though DEQ uses GovDelivery as an email service to notify the majority of interested parties, DEQ continues to mail postcards to those permitted facilities for which we have no email address. DEQ understands the communications limitations applicable within environmental justice communities and will continue to use non-electronic means to engage such communities. DEQ hopes to reach the point where people can call in from anywhere in the state to attend an informational meeting or public hearing, making participation for anyone much easier.*  *DEQ agrees with commenter and changed the proposed rules in response to this comment.* |

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| **Summary of Comments and DEQ Responses**  Category 8: Re-establish the Heat Smart woodstove replacement program exemption for small commercial solid fuel boilers regulated under the permitting program | |
|  | *DEQ did not receive any comments on this part of the proposed rulemaking.* |

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| **Summary of Comments and DEQ Responses**  Category 9: Remove annual reporting requirements for small gasoline dispensing facilities | |
|  | DEQ put many sources into retroactive non-compliance when it: 1) eliminated the exemptions contained in state rules prior to 2008; and 2) went beyond the federal NESHAP.  DEQ received comments in this category from commenter 38 listed in the *Commenter section* below.  Response:  *DEQ appreciates your concern that DEQ may have placed GDFs into retroactive non-compliance.*  *Exemption elimination: DEQ carried over the vapor balance exemptions for the following storage tanks when it eliminated OAR 340-232-0070 and 340-242-0520(1) and pulled their requirements into OAR 340 Division 244 [see OAR 340-244-0234(4)(a)(C) and (b)]:*   * *Storage tanks with a rated capacity of less than 1,500 gallons located at GDFs in the Portland AQMA, Medford AQMA, or Salem SKATS; and* * *Storage tanks at GDFs with annual throughput of less than 120,000 gallons and located in Clackamas, Multnomah, or Washington County.*   *Tanks that did not qualify for these exemptions were required to have met the submerged fill requirement prior to the Jan. 10, 2008 compliance date in OAR 340-244-0238(1), so setting a compliance date of Jan. 10, 2008 did not put these tanks into retroactive non-compliance.*  *DEQ did not carry over the submerged fill exemption for existing storage tanks with a rated capacity of 1,500 gallons or less when it eliminated OAR 340-232-0070. However, DEQ applied the NESHAP compliance date of Jan. 10, 2011 to these tanks, meaning GDFs had between Dec. 13, 2008 and Jan. 10, 2011 to install submerged fill tubes and they were not placed in retroactive non-compliance. There was no exemption from the submerged fill requirement in OAR 340-232-0070 for new gasoline storage tanks. Therefore, these tanks were required to have met the submerged fill requirement prior to the Jan. 10, 2008 compliance date in OAR 340-244-0238(1), so setting a compliance date of Jan. 10, 2008 did not put these tanks into retroactive non-compliance.*  *Going beyond the NESHAP: When DEQ went beyond the NESHAP, by establishing a vapor balance system threshold of 40,000 gallons per month, it gave new tanks from Dec. 13, 2008 to Dec. 13, 2009 (or upon installation, whichever is later) and existing tanks between Dec. 13, 2008 and Jan. 10, 2011 to comply with the vapor balance requirement, so these tanks were not put into retroactive non-compliance. When DEQ also went beyond the NESHAP, by eliminating the submerged fill threshold of 10,000 gallons per month, it gave existing tanks from Dec. 13, 2008 to Jan. 10, 2011 to comply with the submerged fill requirement, so these tanks were not put into retroactive non-compliance. However, DEQ may have inadvertently placed tanks with less than 10,000 gallons per month and installed between Jan. 10, 2008 and Dec. 13, 2008 into retroactive non-compliance by establishing a compliance date for these tanks of Jan. 10, 2008. To remedy this situation, DEQ proposes that the EQC adopt a compliance date of Dec. 13, 2009 for these tanks.*  *DEQ did not change the proposed rules in response to this comment.* |
| 9.2 | During the NESHAP rulemaking process, DEQ conducted outreach to petroleum industry sources. However, the effects of these rules on industrial sources has not been made clear and many sources not subject to the federal NESHAP, particularly those in the Air Quality Maintenance Areas where the state rule applies some level of control to all tanks over 250 gallon capacity regardless of throughput, are likely not aware of the rule’s applicability.  DEQ received comments in this category from commenter 38 listed in the *Commenter section* below.  Response:  *DEQ used databases from the State Fire Marshal and Department of Agriculture that contain information on all gasoline storage tanks in the state and performed extensive outreach to all GDFs during and after the rulemakings, to the point where it is confident that most GDFs in the state are aware of the rules and complying with them. In addition, many industrial sources in Oregon have DEQ air permits and likely either had the GDF requirements rolled into their permit or were informed of the requirements through their permit writer or inspector.*  *DEQ did not change the proposed rules in response to this comment.* |
| 9.3 | Traditionally, DEQ has worked with sources to support compliance. At a minimum, DEQ needs to address any retroactive compliance issues they have created, provide an effective notice to sources that clearly identifies facilities likely to be affected by rule changes, and provide a reasonable compliance schedule for sources not covered by the federal NESHAP.  DEQ received comments in this category from commenter 38 listed in the *Commenter section* below.  Response:  *DEQ agrees that its GDF rules affect many small businesses and took actions to reduce the fiscal impacts on small businesses. DEQ also performed extensive outreach to all GDFs during and after the rulemakings, to the point where it is confident that most GDFs in the state are aware of the rules and complying with them.*  *DEQ did not change the proposed rules in response to this comment.* |
| 9.4 | Is it reasonable to require older, limited use (low throughput) tanks to install these controls? It seems like a lot of money for very little benefit.  DEQ received comments in this category from commenter 38 listed in the *Commenter section* below.  Response:  *DEQ agrees with the commenter. However, the rules already exempt older limited use tanks from installing emission controls. In the original 2008 rulemaking, DEQ proposed rules that would have required vapor balance systems at low-volume facilities (dispensing 10,000 gallons or more per month). After convening a fiscal advisory committee and accepting public comment similar to the commenter’s, DEQ recommended and the EQC adopted rules that require emission controls at moderate and large-volume facilities that dispense on average 40,000 gallons or more per month.*  *DEQ did not change the proposed rules in response to this comment.* |
| 9.5 | The costs of these changes were not properly analyzed during the rule development.  DEQ received comments in this category from commenter 38 listed in the *Commenter section* below.  Response:  *DEQ disagrees with the commenter. In 2008, during the development of the original rules, and based on input from a tank vendor, DEQ estimated the cost to retrofit an existing tank with a vapor balance system at between $450 and $1,150 and the cost to include a vapor balance system on a new tank to be approximately $350. DEQ estimated that going beyond the federal Gasoline Dispensing NESHAP by setting the volume trigger for a vapor balance system would cost over $1,000,000 per year statewide and result in an annual expense to facility owners of between $0.002 and $0.006 per gallon, with the biggest impact on owners of smaller facilities. Also in 2008, DEQ held a fiscal advisory committee for this rulemaking and some members of the committee determined that the draft rules would impose a significant adverse impact on small businesses. Based on committee members suggestions on how DEQ could reduce the fiscal impact on small businesses, DEQ raised the volume trigger for stage I vapor controls from 10,000 gallons per month to 20,000 gallons per month. During the 2008 public comment period, one commenter claimed the cost to retrofit an existing tank with a vapor balance system was closer to $2,000 and another commenter claimed that a 20,000 gallon per month volume trigger would cause serious harm to smaller station owners. Based on these comments, DEQ recommended, and in Dec. of 2008, the EQC adopted a 40,000 gallon per month volume trigger.*  *DEQ did not change the currently proposed rules in response to this comment.* |
| 9.6 | The revision to the Gasoline Dispensing Facility (GDF) NESHAP to reduce the reporting burden for sources with low throughputs is a good idea. However, why does DEQ retain the state-only provisions of this rule at all? The state-only provisions are burdensome to industry and have provided little benefit to the environment. DEQ should remove the state-only provisions of this rule and not just limit the changes to decreasing the annual reporting obligations for facilities with a monthly throughput of 10,000 gallons of gasoline or more.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 38, 41, 42, 44, 47, 48 and 58 listed in the *Commenter section* below.  Response:  *DEQ agrees that it is more efficient for DEQ to accept delegation of the federal NESHAPs without modification. EQC adopts the overwhelming majority of federal NESHAPs by reference. The GDF NESHAP is the only NESHAP that EQC did not adopt by reference. DEQ’s justification for adopting a rule that implements and goes beyond the federal GDF NESHAP was to protect public health and worker health, help prevent future violations of ambient air quality standards, and take advantage of existing emission control equipment. The following is from DEQ’s staff report to the EQC in Dec. of 2008:*  *Benzene, which naturally occurs in crude oil and is increased through refining to boost gasoline's octane rating, is a known carcinogen. Because benzene concentrations in many Oregon communities are many times above levels protective of human health, reducing benzene is a priority for DEQ. While several federal regulations and state initiatives promise to reduce benzene in our air over the next twenty years, DEQ is pursuing faster reductions.*  *The Gasoline Dispensing NESHAP only required emission controls at the largest facilities. To further reduce benzene exposures in Oregon, the EQC went beyond the Gasoline Dispensing NESHAP by requiring emission controls at moderate and high volume facilities.*  *Stage I vapor controls are currently required in Portland, Medford and Salem to control ozone. Outside of these areas stage I vapor controls are employed by some but not all gasoline dispensing facilities. Controlling gasoline vapors reduces benzene exposures at and near gasoline dispensing facilities, contributes to continuing compliance with stricter ozone standards, and also conserves gasoline.*  *The federal NESHAP will reduce benzene emissions caused by the filling of gasoline storage and dispensing tanks in Oregon by an estimated 12 tons per year (32%) and volatile organic compounds emissions by an estimated 680 tons per year (32%), as well as save an estimated 221,000 gallons of gasoline per year (0.016%) statewide. By going beyond the NESHAP, this rulemaking would additionally reduce stage I benzene emissions in Oregon by an estimated 16 tons per year (44%) and volatile organic compounds emissions by an estimated 930 tons per year (44%), and save an estimated 303,000 gallons of gasoline per year (0.021%) statewide. Combined, the federal NESHAP and the proposed statewide stage I vapor control requirement would reduce stage I benzene emissions in Oregon by an estimated 28 tons per year (76%) and volatile organic compounds emissions by an estimated 1,610 tons per year (76%), and save an estimated 524,000 gallons of gasoline per year (0.037%) statewide.*  *In a separate rulemaking, DEQ is proposing that the EQC adopt the reciprocating internal combustion engine NESHAP by reference, for sources required to have a Title V or Air Contaminant Discharge Permit.*  *DEQ did not change the proposed rules in response to this comment.* |
| 9.7 | Small gasoline dispensing facilities are exempt from DEQ air quality permitting and reporting and the same should be true for small cardlock gasoline dispensing facilities. This type of business is so similar why should they be held to different permitting and reporting requirements?  DEQ received comments in this category from commenter 35 listed in the *Commenter section* below.  Response:  *DEQ agrees that small GDFs and small cardlocks should be held to the same permitting and reporting requirements. Oregon’s GDF rules currently do not differentiate between small GDFs and small cardlocks and the proposed rules do not change that. Soon after the EQC extended the 10,000 gallon per month permit exemption to retail GDFs and GDFs with underground storage tanks in 2009, many small cardlocks were able to cancel their permits.*  *DEQ did not change the proposed rules in response to this comment.* |
| 9.8 | Given that DEQ is proposing to remove annual reporting requirements for small gasoline dispensing facilities, the commenter also recommends that DEQ consider proposing the removal of Stage II vapor recovery requirements. EPA determined in 2012 that redundant technology was in widespread use and issued guidance to states for removing Stage II requirements. Many states have already either removed their Stage II requirements or are allowing existing Stage II systems to be removed in the near future, while other states, anticipating removal, are not enforcing Stage II requirements for new and/or modified gasoline dispensing facilities.  DEQ received comments in this category from commenter 57 listed in the *Commenter section* below.  Response:  *Stage-2 vapor recovery is still an important ozone and air toxics reduction strategy for the Portland area. EPA determined that nationally, “on-board” vapor recovery systems (i.e., systems embedded in the vehicle) are in widespread use within the motor vehicle fleet, and therefore Stage-2 vapor recovery systems “at the pump” are no longer needed to control smog forming air pollution. EPA provided guidance to states allowing for the repeal of Stage-2 if it is in widespread use in the state, and if it is no longer needed to meet ozone standards. In Oregon, however, the motor vehicle fleet is older than the national average fleet used by EPA to evaluate Stage-2 (i.e., cars last longer on the west coast than they do in most of the county). Oregon’s fleet has not yet reached the point of “widespread use” for on-board vapor recovery systems, and vapor recovery “at the pump” is still needed. DEQ expects Oregon’s fleet to reach the tipping point for “widespread use” in the 2015-2017 timeframe. Stage-2 vapor recovery is also an important benzene reduction strategy, which is a potent toxic air pollutant. In 2015 EPA will adopt a new, likely more protective national ambient air quality standard for ozone (smog), and DEQ will at that time evaluate Oregon’s status under this new standard. DEQ intends to evaluate the need for Stage-2 vapor recovery and other pollution reduction strategies in light of the new ozone standard, when it updates the Portland ozone plan in the 2016-2017 timeframe.*  *DEQ did not change the proposed rules in response to this comment.* |

| **Summary of Comments and DEQ Responses**  Category 10: Public Notice | |
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|  | DEQ has not given the public enough time and opportunity to intelligently comment on over 1,000 pages of material, even with the time extensions. The PowerPoint presentations were inadequate given the width and breadth of the proposals, and the summaries prepared by DEQ did not cover all the changes.  In addition, the entire rulemaking notice was slated as a housekeeping process and minor changes for areas of the state with particulate issues caused by wood stoves. However, there are in fact significant and material revisions to public notice and permitting requirements. Had this been clear at the outset, more stakeholders would have been involved and the process would have been more transparent. Very little in these proposals is necessary, and a delay to make sure DEQ gets it right is appropriate.  DEQ received comments in this category from commenters 2, 3, 4, 7, 20, 38, 40, 41, 42, 44, 47, 48, and 58 listed in the *Commenter section* below.  Response:  *DEQ held stakeholder meetings around the state (Portland, Pendleton, Eugene and Medford) in August of 2013. At these meetings, DEQ presented conceptual ideas for the proposed rulemaking, inviting the public to discuss the concepts.*  *In January 2014, DEQ provided the fiscal advisory committee and interested parties including Neighbors for Clean Air a preliminary version of the proposed rules. Beginning in June 2014, DEQ provided the public thirteen weeks to provide comments on the proposed rules, which included three requested extensions. Because many of DEQ’s proposed changes are clarifications and simplifications, such as changing “the Department” to “DEQ” and “shall” to “must” and DEQ explained all of the changes in its Crosswalk of Proposed Revisions DEQ determined it provided adequate time and opportunity for interested parties to comment..*  *DEQ does not know of any instances nor did the commenter provide specific instances where the work has been incomplete or insufficiently explained. DEQ delayed proposed adoption of the rulemaking package from January 2015 to March 2015 in order to sufficiently address public comments and make changes to the rules as a result of public comment.*  *Neither the Notice of Proposed Rulemaking or public notices sent to interested parties and affected facilities stated the rulemaking was strictly a housekeeping process. DEQ included the following language in its public notice:*  *“DEQ proposes rules to streamline, reorganize and update Oregon’s air quality permit programs. The changes would allow DEQ to improve air quality with more efficient and effective permitting programs. The proposed rules include changes to the Source Sampling Manual Volumes I and II and the Continuous Monitoring Manual.*  *DEQ also proposes changes to statewide particulate matter emission standards and the preconstruction permitting program. The changes would help Oregon comply with the U.S. Environmental Protection Agency’s ambient air quality standard for fine particulates, commonly called PM2.5 and ensure Oregon’s permitting programs protect air quality.*  *In addition, DEQ proposes rules to expand preconstruction permitting flexibility for smaller facilities, allow DEQ to use technology such as teleconferencing for public meetings to improve community outreach, and make minor changes to the woodstove replacement program called Heat Smart and the gasoline dispensing facility rules to improve program implementation.*  *This document organizes and describes the proposed rules under the following nine categories:*  *1.* *Clarify and update air quality rules*  *2.* *Update particulate matter emission standards*  *3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment*  *4. Establish two new state air quality area designations (“sustainment” and “reattainment”) to help areas avoid and more quickly end a federal nonattainment designation*  *5. Identify Lakeview as a state sustainment area while retaining its federal attainment designation*  *6.* *Change the preconstruction permitting program (New Source Review)*  *7. Provide more flexibility for public hearings and meetings*  *8. Re-establish woodstove replacement program (Heat Smart) exemption for small commercial solid fuel boilers that the permitting program regulates*  *9. Remove annual reporting requirements for small gasoline dispensing facilities”*  *Clarifying and updating air quality rules was only one aspect of the rulemaking package. DEQ explained every proposed change in the “Crosswalk of Proposed Revisions” document.*  *DEQ did not change the proposed rules in response to this comment.* |
| 10.2 | DEQ’s Public Notice Packet stated that the Statement of fiscal and economic impacts was available online, but the URL provided only directed to a 13-page summary of a two-and-a-half hour meeting of the Fiscal Impact Advisory Committee. This meeting/summary was inadequate given the extent and complexity of the proposed rule language—especially the deletion of the Plant Site Emission Limit rule at OAR 340-222-0041, the language that Plant Site Emission Limit compliance will not always be determined by the methodology stated in the permit, the reworking of New Source Review, and the treatment of the Columbia River Gorge National Scenic Area as a federal Class I area, which have wide-ranging, complex economic impacts that were not adequately addressed.  DEQ received comments in this category from commenters 46 and 57 listed in the *Commenter section* below.  Response:  *The Notice of Proposed Rulemaking contains the Statement of fiscal and economic impact. This statement includes impacts on state agencies, local government, the public, and businesses.*  *The proposed rule amends and does not delete OAR 340-222-0041. OAR 340-222-0041(4) concerns the requirements for obtaining offsets and demonstrating net air quality benefit applicable when a source not subject to Major New Source Review requests to increase a Plant Site Emission Limit to a level that exceeds the source’s netting basis, the same requirements remain applicable as part of the Prevention of Significant Deterioration and State New Source Review programs under division 224. DEQ has clarified OAR 340-222-0041(4) in addition to directing sources that trigger New Source Review to division 224. Moving the requirements from OAR 340-222-0041(4) to division 224 does not have a fiscal and economic impact as the required analyses remain the same.*  *Clarifying how actual emissions are calculated does not have a fiscal and economic impact since the method remains the same.*  *The Statement of fiscal and economic impact in the Notice of Proposed Rulemaking contains the estimated cost of compliance for the changes to the New Source Review program. The proposed changes to require visibility analysis and deposition modeling in the Columbia River Gorge National Scenic Area do not have a fiscal and economic impact since sources that currently trigger this requirement do the analyses voluntarily. The requirement for the analysis does not add any additional cost to sources that trigger this requirement in the future since they would have done it voluntarily otherwise. This requirement does not equate to treating the Gorge as a Class I area.*  *DEQ did not change the proposed rules in response to this comment.* |

| **Summary of Comments and DEQ Responses**  Category 11: Other Comments | |
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|  | DEQ should revise its rules to abandon the Plant Site Emission Limit Program to implement the Prevention of Significant Deterioration (Prevention of Significant Deterioration) program because it does not meet the minimum requirements of the Clean Air Act. The following is a list of problems with Oregon’s Prevention of Significant Deterioration program:   * It focuses on the Plant Site Emission Limit, which is a permit limit, not a calculation of actual emissions or potential to emit of a new unit, to determine whether a "major modification" has occurred. The focus of the determination must be on whether actual emissions increase, not whether the permit limit changes. * Oregon's program requires a "major modification" to result in increase in permitted emissions on a plant-wide basis, instead of focusing on the pollution increase from the new emissions unit. In this way, Oregon's program features "automatic netting" if the source had a Plant Site Emission Limit in excess of emissions so no Prevention of Significant Deterioration permit is required. * Oregon's Plant Site Emission Limit approach is that the Plant Site Emission Limit is not based on projected or actual emissions during a time-frame that is contemporaneous with the physical or operational change in question, but during the baseline period. The baseline emission rate is then adjusted as rules change and future permitting decisions are made and is referred to as the netting basis. The resultant netting basis does 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 "look back" period, in clear contravention of the federal regulatory floor. Even EPA has acknowledged that Oregon’s Prevention of Significant Deterioration program does not subject the same sources to Prevention of Significant Deterioration that the federal program does and that some sources that would trigger the federal program do not trigger Oregon’s Prevention of Significant Deterioration program.   Given that the Plant Site Emission Limit program is inconsistent with the federal program because of its focus on permitted instead of actual or potential emissions, and its 30-year “look back” period, DEQ should discontinue use of this program.  DEQ received comments in this category from commenter 40 listed in the *Commenter section* below.  Response:  *The Oregon Plant Site Emission Limit program is unique in the country and provided a benchmark for the Federal regulations. Oregon uses a fixed baseline year of 1977 or 1978 (or a prior year if more representative of normal operation) and then includes all emissions increases and decreases since baseline when setting the allowable emissions in the Plant Site Emission Limit. Increases and decreases since the baseline year do not affect the baseline but are included in the difference between baseline and allowable emissions. If the Plant Site Emission Limit is to be set at a level greater than a Significant Emission Rate over the baseline actual emission rate, an evaluation of the air quality impact and New Source Review applicability are required. If the Plant Site Emission Limit is not greater than the SER over the baseline actual emission rate, the Plant Site Emission Limit is set without further review. The Plant Site Emission Limit allows a source the flexibility to make changes within the Baseline plus SER range without triggering further air quality modeling analysis or control technology relating to major modifications.*  *Baseline, or as we refer to it Netting Basis, currently has a provision in the Oregon rules to be a declining cap. This is done by reducing the Netting Basis to not more than the source’s potential to emit plus the SER. By doing this, old ‘grandfathered’ emissions are removed from a source’s inventory unless they can still be used by the source under the current configuration. The Netting Basis reduction occurred starting July 1, 2007 and continues again at each permit renewal thereafter. This is similar to the Plantwide Applicability Limit which allows for a declining cap upon renewal if actual emissions are below allowable.*  *Minor new source review is handled though the same process of comparing the Netting Basis with the proposed Plant Site Emission Limit. If the difference is greater than the SER, an air quality analysis is required to ensure standards and increments are not exceeded. If a standard or increment were threatened by the minor source, the Plant Site Emission Limit rule would require the permittee to reduce the impact, or would limit the emission rate of the source, before the permit is issued.*  *Oregon Plant Site Emission Limit and Federal Plantwide Applicability Limit*  *EPA states in document titled New Source Review Improvements Supplemental Analysis of Environmental Impacts of the 2002 Final New Source Review Improvement Rules that “The EPA expects that the adoption of Plantwide Applicability Limit provisions will result in net environmental benefit.” The Oregon Plant Site Emission Limit, similar to the Plantwide Applicability Limit , has been and remains a mandatory requirement of the Oregon program.*  *The Oregon Plant Site Emission Limit and the federal Plantwide Applicability Limit are very similar in the incentives they provide and the way New Source Review applicability is determined under the two programs. Each of the concepts allows the flexibility for a source to make changes that they need without triggering New Source Review as long as they remain below the limit. In the Oregon program when the Plant Site Emission Limit is increased the new Plant Site Emission Limit level is compared to the Netting Basis (Baseline) to determine if additional analysis is required. If the increase is greater than the significant emission rate for a pollutant, an air quality analysis is required to ensure protection of the National Ambient Air Quality Standards and Prevention of Significant Deterioration increments. If the increase is due to a physical change or change in method of operation, control technology requirements apply to each piece of equipment that was modified and contributes to the increase in emissions (this includes pieces of equipment that were previously permitted and installed). Under the federal reform rules, New Source Review is triggered if the Plantwide Applicability Limit is to be increased. Under the Oregon Plant Site Emission Limit increases may not trigger New Source Review if the increase is due to a PCP or use of baseline existing capacity (these are not considered physical changes or changes in method of operation). In combination with our Netting Basis, the Plant Site Emission Limit provides the same incentives as the Plantwide Applicability Limit and also protects against violation of the National Ambient Air Quality Standards and Prevention of Significant Deterioration increments by looking at all changes in emissions (increases and decreases) since the baseline period (1977 or 1978), including those already permitted, installed and operating.*  *The Plant Site Emission Limit is set at the maximum level of expected emissions (projected future actual) from a source, not necessarily at the Baseline plus the SER. Setting the Plant Site Emission Limit in this manner maintains a more realistic emission inventory and keeps the airshed form being tied up by sources that do not intend to emit at that level. The Plantwide Applicability Limit , however similar, ties up airshed capacity by attaching it to a specific source (Plantwide Applicability Limit = Baseline plus SER).*  *The Plant Site Emission Limit is a mandatory element of the Oregon permitting process so concepts like the clean-unit exemption have no impact or meaning under our program. This is the same as for a facility that chooses to have a Plantwide Applicability Limit under the federal program.*  *Oregon’s New Source Review equivalency demonstration*  *Introduction*  *Oregon DEQ of Environmental Quality has a long history with an established, mature Major New Source Review and Prevention of Significant Deterioration (Prevention of Significant Deterioration) permitting program, contained in an approved State Implementation Plan (SIP), that works well to control emissions, provide incentives for facility upgrades and improve air quality. The Oregon Major New Source Review/Prevention of Significant Deterioration program was established in the early 1980’s and its ongoing success and industry acceptance provided one of the models to support the development of the federal New Source Review reform rules.*  *Federal New Source Review Reform*  *New Source Review Reform adopted by EPA in December 2002 has five major components or concepts. The five major concepts are: Plantwide Applicability Limit, Baseline (2 in 10 years), Pollution Control Project exemption, Clean Unit exemption and Baseline Actual to Projected Future Actual emissions. For sources covered by a Plantwide Applicability Limit the other major concepts of New Source Review Reform, with the possible exception of PCP exemption, do not apply.*  *Conclusion:*  *DEQ’s program is equivalent because:*  *Plant Site Emission Limit provides same incentives and flexibility as Plantwide Applicability Limit .*  *Plant Site Emission Limit and Plantwide Applicability Limit consistently simplify the New Source Review applicability determination which was one of the major goals of New Source Review reform.*  *As we understand it, with a Plantwide Applicability Limit based program, there is no need to address other reform concepts because they are all covered by the Plantwide Applicability Limit .*  *Oregon maintains a successful, established, demonstrated and mature program that has contributed to the ability to attain and maintain National Ambient Air Quality Standards.*  *How the Oregon Major New Source Review/Prevention of Significant Deterioration program works:*  *A fixed baseline period [OAR 340-200-0020(14)] of 1977 or 1978 (or a year prior if more representative of normal operation) has been established in the Oregon rules. The Baseline Emission Rate [OAR 340-200-0020(13)] is defined as actual emissions during the baseline period. The Netting Basis is established as the Baseline Emission Rate minus any rule required reductions, minus any credits transferred offsite, minus any unassigned emissions reductions [OAR 340-222-0045(5)] due to decreased capacity, plus any increases approved through a major New Source Review/Prevention of Significant Deterioration action. The projected emissions (this would be the Plant Site Emission Limit in the permit) at a new or modified source are compared to the Netting Basis[OAR 340-200-0020(71)]. If the difference between the Plant Site Emission Limit and the Netting Basis is greater than a Significant Emissions Rate [OAR 340-200-0020(124)], further analysis is required depending on the designation of the area and the size of the new or modified source.*  *Within a designated Nonattainment or Maintenance area [OAR 340-204-0030 and 340-204-0040, respectively], if a significant increase in emissions over the Netting Basis is due to a new source, or a physical change or change in method of operation of an existing source, New Source Review [OAR 340-224-0050 or 340-224-0060] applies (including control technology, ambient air quality analysis and net air quality benefit). If the increase is due to use of existing capacity (increased hours of operation), control technology is not required but the other requirements still apply.*  *Within an attainment or unclassifiable area, only ambient air quality analysis is required unless the source is also a federal major source (100 tons per year for sources in a listed category or 250 tons per year if not listed). Federal major sources are required to implement the full Prevention of Significant Deterioration requirements of our rules including control technology and ambient impact analysis. Sources that are located outside nonattainment or maintenance areas are not allowed to have an effect greater than the significant impact level (OAR 340-200-0020(161)] on any nonattainment or maintenance areas. Offsets may be used to demonstrate reductions in impact levels. [OAR 340-224-0070]*  *The Oregon program accumulates all increase and decreases in emissions since the baseline year when evaluating if a source is subject to major New Source Review/Prevention of Significant Deterioration. Any source that did not exist during the baseline period has a zero baseline and Netting Basis unless the source goes through full New Source Review/Prevention of Significant Deterioration and establishes a Netting Basis through construction approval.*  *Baseline and Netting Basis are set and adjusted using the best data available. If a better emission factor or emission estimation method is established, the Baseline and Netting Basis, as well as the Plant Site Emission Limit, are adjusted based on this better information.*  *Basic DEQ and EPA New Source Review/Prevention of Significant Deterioration Program Differences*  *DEQ’s New Source Review/Prevention of Significant Deterioration rules differ from EPA’s regulations in a number of fundamental ways.*  *The DEQ program has lower major source thresholds, so smaller new sources and changes to smaller existing sources are subject to review.*  *The DEQ program utilizes a plant-wide cap approach to defining major modification rather than a contemporaneous net emissions increase approach as does EPA’s rules. The effect of this plant-wide cap approach is that some changes which would be subject to review under EPA’s rules are not subject under DEQ’s rules and vice versa.*  *DEQ accumulates all emissions increases and decreases from physical changes or changes in the method of operation since the baseline year or last major source permit, whichever is more recent, rather than just during a “contemporaneous” time period. This aspect of DEQ’s program creates an incentive for sources to voluntarily reduce emissions in order to avoid triggering New Source Review/Prevention of Significant Deterioration.*  *The Plant Site Emission Limit rules have provisions that require the Plant Site Emission Limit and netting basis to be reduced if emission reductions at the sources occur and make the caps excessively high.*  *The Plant Site Emission Limit also eliminates the possibility of a gradual increase of emissions over time by piecemeal projects not triggering New Source Review/Prevention of Significant Deterioration. Under the federal rules, an increase or decrease in actual emissions is contemporaneous.*  *Changes which would result in increased emissions, but would not be considered modifications under EPA’s rules, are reviewed for compliance with standards and increments under DEQ’s Plant Site Emission Limit program.*  *EPA evaluated and initially approved the DEQ New Source Review program in 1982 as being equivalent or more stringent than EPA’s regulations on a program basis and more recently in 2011.*  *Continued Implementation of Oregon New Source Review/Prevention of Significant Deterioration Program*  *Based on conversations with EPA Region 10, there are definite advantages of the Oregon program over the federal program, including simplicity in determining applicability of the program as noted by some commenters. The following list contains elements of the federal New Source Review/Prevention of Significant Deterioration program that make it potentially less stringent and more complicated than Oregon’s program:*   * *The ability to subtract from projected future actual emissions any increase due to demand growth* * *The ability to subtract from projected future actual emissions anything a source was capable of accommodating before the change that is unrelated to the change* * *The ability to disaggregate changes at a facility that are involved in a project* * *The question of whether emissions increases from debottlenecking should be included in the modification* * *The fact that fugitive emissions are not included in emissions increase for all source categories* * *Potential exemptions for routine repair and replacement* * *The ability to pursue the netting credits approach, which involves a 5-year contemporaneous period that is plant wide* * *The ability to pick different baseline years for each pollutant involved in a change.* * *The unenforceability of the projected actual emissions in the test of whether a major modification has occurred*   *Oregon’s New Source Review/Prevention of Significant Deterioration program was used as one of the models to support the development of the Plantwide Applicability Limit option in the federal New Source Review/Prevention of Significant Deterioration rules. DEQ has determined that the benefits of Oregon’s New Source Review/Prevention of Significant Deterioration program far outweigh any advantages of the federal program. Changes will be made to incorporate greenhouse gases into Oregon’s New Source Review/Prevention of Significant Deterioration program.*  *Oregon hasn’t always met the National Ambient Air Quality Standards and initially had several communities designated by the EPA as non-attainment areas for ozone, carbon monoxide and particulate. DEQ developed attainment plans for these areas which included more stringent controls, such as limits on emissions of solvents and particulate matter limits on wood particle dryers and hardboard press vents. The more stringent controls on industrial emissions resulted in reductions to the Plant Site Emission Limit and netting basis. In this sense, the Plant Site Emission Limits help achieve compliance with the National Ambient Air Quality Standards even though they are not used to demonstrate compliance with the standards. With these and other control strategies, all of the nonattainment areas under DEQ's jurisdiction were redesignated as maintenance areas in the 1990s and have remained in compliance ever since.*  *The PM10 control strategies in the maintenance plans were so effective that when EPA developed the first PM2.5 ambient air quality standards, there were no PM2.5 nonattainment areas in the state. Only later when EPA reduced the PM2.5 National Ambient Air Quality Standards, two areas in the state were designated as nonattainment areas. An additional area in the state is violating the standard based on recent monitoring data, but it has not officially been designated as a nonattainment area yet.*  *Based on the fact that the only National Ambient Air Quality Standards violations in the state are for a pollutant for which EPA recently lowered the standards, DEQ’s air quality program has been very successful in protecting air quality in the state.*  *DEQ did not change the proposed rules in response to this comment.* |
| 11.2 | The commenter has lived in Oregon for 35 of 41 years and has recently developed asthma. The commenter wondered if moving back into SE, near Johnson Creek & Precision Cast parts has something to do with his/her half lung capacity. PCP might provide local jobs but at the cost of what? Stricter regulations on air pollutants are a no brainer.  DEQ received comments in this category from commenter 28 listed in the *Commenter section* below.  Response:  *DEQ is aware that asthma is a significant health problem for many Oregonians. We understand that there are multiple causes, triggers and aggravators of asthma, including personal behaviors, genetic factors, allergens, the indoor environment and outdoor pollutants. Because each person’s situation and exposures vary, it is critical to consult a physician to determine your own personal asthma factors. DEQ currently has no specific information that emissions from Precision Cast Parts are associated with asthma problems. However outdoor pollutants, especially woodsmoke and diesel exhaust present in the Portland area, can worsen asthma. Between 2011 and 2013 there were higher levels of particulates monitored in SE Portland and Hillsboro during periods of winter air stagnation. The primary source of Portland particulates is wood-burning. DEQ is currently working with local governments to reduce wood-burning during winter months to prevent unhealthy levels of particulate.*  *DEQ did not change the proposed rules in response to this comment.* |
| 11.3 | There is so much in the air that we breathe that singly could be considered non toxic or even benign when considered individually. Many of these chemicals combine in the atmosphere to actually create a very hazardous "stew." DEQ should consider the cumulative effects of concentrations in neighborhoods and the "spike phenomenon" where total releases remain within limits, but concentrated bursts create poor air quality. Some airsheds are already overloaded.  DEQ received comments in this category from commenter 8 listed in the *Commenter section* below.  Response:  *Oregonians experience exposure to multiple air pollutants, and exposure levels vary widely depending on time spent in dense urban areas, on or near busy roadways, neighborhood levels of wood burning, and proximity to commercial and industrial emissions. DEQ has worked successfully with many communities statewide to control ozone (smog) and particulate pollution, but challenges remain as federal standards become more protective. In our air permitting program for industrial facilities, Oregon ensures compliance with federal regulations limiting emissions of air pollutants.*  *With the assistance of an Air Toxics Science Advisory Committee, DEQ has adopted a set of protective benchmarks or clean air goals for 52 toxic air pollutants that are known or suspected to cause serious health effects. Each chemical-specific air benchmark was calculated so that exposure of people to carcinogenic and noncarcinogenic chemicals at benchmark levels does not exceed acceptable levels. For chemicals that cause cancer, the benchmark value represents an acceptable level of carcinogenic risk – that is, not to exceed a risk of more than 1 additional incidence of cancer in a population of 1 million people (1 x 10-6) over a lifetime. For chemicals that can cause noncarcinogenic effects, the benchmark value represents a concentration which is unlikely to cause an appreciable risk of adverse non-cancer effects over a lifetime. (Each air toxics benchmark is individually set at a very protective level in part because DEQ is aware that people are exposed to many chemicals at once, with the intent being to also be protective of potential cumulative air exposure risks.). DEQ monitoring and computer modeling indicates that Oregonians are exposed to unacceptably high levels of several air toxics, especially from diesel, woodsmoke and automobile emissions. DEQ is working to reduce risks from air toxics in those categories.*  *Since the primary health concern with air toxics is long-term exposure to lower levels, Oregon’s existing air toxics benchmarks were calculated to be comparable to averaged annual concentrations of air toxics. In response to public concerns about short-term, higher pollutant levels, or spikes, DEQ is currently working with our Air Toxics Science Advisory Committee to investigate the scientific validity and public health benefit of establishing short-term guidelines to serve as additional clean air goals.*  *DEQ did not change the proposed rules in response to this comment.* |
| 11.4 | The commenter is concerned about the rule changes proposed by the DEQ. Do I understand correctly that the air quality protocols will lessened by these changes? I certainly hope that I have gotten some misinformation, because if this is true, I find it terribly disturbing! After all the good work that was and has been done to improve and keep air quality to a positive standard for the health and well-being of all citizens, it would be a travesty to set the bar lower to satisfy commercial and financial interests!  DEQ received comments in this category from commenter 18 listed in the *Commenter section* below.  Response:  *DEQ is proposing rule changes that would have an overall positive effect on air quality. For example, DEQ is proposing to lower particulate matter standards, thus improving air quality around the state. In areas where air quality is close to ambient air quality standards, DEQ is proposing rules that would allow for economic development in those areas as long as the new or expanding business offsets its air pollution with the shutdown of other air pollution sources, such as old woodstoves, the main cause of poor air quality in many areas around the state.*  *DEQ did not change the proposed rules in response to this comment.* |
| 11.5 | DEQ needs to take care of our world by doing inspections of permitted facilities. Permittees pay fees every year but don’t receive inspections. DEQ never gives good information on improvements but threatens if fees aren’t paid. DEQ should do what they are supposed to do and not give themselves raises or bonuses.  DEQ received comments in this category from commenter 29 listed in the *Commenter section* below.  Response:  *DEQ permits hundreds of facilities on general permits, including the commenter’s facility, for autobody shops that spray coat motor vehicles. These types of permits are on a five year inspection cycle and the commenter’s facility is due for an inspection in 2016. Permittees are always welcome to call their inspectors at any time with any questions regarding compliance and pollution prevention. With limited resources, DEQ staff are not able to visit each permitted facility every year.*  *Oregon increased the Air Contaminant Discharge Permit fees in 2007. At that time, DEQ expected the 20 percent increase to sustain the program until 2011. DEQ implemented extensive program streamlining over the last decade that delayed the need for a fee increase. The 2013 legislature authorized a 20 percent fee increase to restore services for operating Oregon’s Air Contaminant Discharge Permit program. DEQ implemented this increase in a 2014 rulemaking that increased fees by 20%.*  *The Air Contaminant Discharge Permit program is part of Oregon’s federally approved State Implementation Plan required to meet national air quality standards.*  *Oregon’s Air Contaminant Discharge Permit program:*   * *Administers federal health standards, air toxic requirements and other regulations.* * *Reduces the number of unhealthy air days and health risks from air toxics.* * *Issues, renews or modifies permits to prevent or reduce air pollution through permit requirements.* * *Ensures that existing pollution sources comply with state and federal air emissions standards.* * *Ensures that new sources of air pollution install controls such as filtration equipment, combustion controls and vapor controls needed to protect air quality.* * *Provides other essential services such as State Implementation Plan development, emission inventories, technical assistance, inspections, enforcement, rule and policy development, data management and reporting to EPA.*   *The permit fees also help support a portion of air quality monitoring, planning, and agency central services such as accounting and human resources.*  *Ninety-two percent of the revenue that Oregon needs to provide the requisite air quality program services comes from permit fees and state General Fund and federal funds provide the balance.*  *DEQ sends reminder letters to businesses if fees are not paid on a timely basis.*  *DEQ staff sometimes receive a Cost of Living Adjustment if negotiated by the collective bargaining unit. The COLA in 2009-2011 was 0%; 2011 - 1.5%;2012 - 1.45%; 2013 - 1.5; and 2014 - 2%.*  *DEQ did not change the proposed rules in response to this comment.* |
| 11.6 | First, Intel should be held to the highest standards for pollution control and required to use the best achievable control abatement technology. It is incumbent upon DEQ to work with the legislature to require zero toxin release from their plants. Allowing Intel and other semiconductor plants to release toxins that we breathe so they can make money is unacceptable. Intel says they reduce their pollution by 85% or so. If they can do that, then just keep adding the scrubbers, charcoal filters, etc. to reduce the toxic emissions to zero. If required to do so they will find a way to do it. Emissions should be monitored continuously by two independent third parties funded by Intel. We cannot allow Intel to self-report. Not reporting their fluoride emissions for decades needs to be considered. A paltry $143,000 fine was a slap in our faces.  To protect children’s health, it is important for Oregon DEQ to adopt rules for Intel and any other producer of semiconductors or related materials to employ Best Available Control Technology for fluoride and other toxic emissions. Silica particulate emission should be very carefully evaluated, especially silica particulates that are created when volatile organic compounds produced by the organic solvent hexamethyldisilazane (HMDS) are captured in the plant's solvent exhaust ducts, and sent to the plant's volatile organic compounds abatement systems (thermal oxidizers), which incinerate the HMDS emissions and convert them to silica.  Silica in the lungs can lead to pulmonary fibrosis. The use of fluorides and their related compounds are equally concerning because of their toxicity, especially combined with other chemicals, and should not be emitted all.  Specifically, please retain Oregon's current regulations and in addition please add to Section (66) "Federal Major Source" part (e) Source categories:  add Manufacturing - Semiconductor and related devices (SIC Code 3674 so that Intel will be classified as a major source and be required to adhere to more stringent air quality regulations.  DEQ received comments in this category from commenters 1, 5, 6, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 21, 22, 23, 25, 26, 27, 28, 32, 33, 34, 36, 37, 45, 49, 50, 51, 54, 55 and 59 listed in the *Commenter section* below.  Response:  *DEQ does not agree with the proposed change. The proposed change would make it more likely that Intel would trigger Prevention of Significant Deterioration in the future, and be required to perform a Best Available Control Technology analysis. However, in DEQ’s opinion, Intel already operates emission control systems that would very likely be considered Best Available Control Technology, so there is nothing to be gained from making the proposed change.*  *Intel is also not the only source of emissions in the Hillsboro area. There are many other sources of air pollution, including other industrial sources as well as non-industrial sources such as motor vehicles, dry cleaners, boilers, home furnaces, household chemical products, etc. Intel’s emissions are controlled by modern control devices that, as mentioned above, would most likely qualify as Best Available Control Technology.*  *Intel will be required to get a Title V operating permit based their current emissions. Title V permits are required by the 1990 Clean Air Act Amendments for all large sources and a limited number of smaller sources. The Title V permit program streamlines the way permitting authorities regulate air pollution by consolidating all air pollution control requirements into a single comprehensive operating permit that covers all aspects of a source’s year-to-year air pollution activities. The program was designed to ensure better compliance, to allow for more thorough air pollution control and provide an opportunity for citizens to be involved in the permit review process. Sources are required to provide emissions reports at least semiannually and must certify their compliance status annually. These compliance certifications must be signed by a responsible official of truth, accuracy, and completeness based on information and belief formed after reasonable inquiry. A responsible official is someone in upper management that has the authority to influence the day-to-day operations of the facility. There is civil and criminal liability for false reporting. Because of the compliance certification requirements under the Title V program, there is no need for independent third party monitoring.*  *EPA has worked with the U.S. Semiconductor Industry Association (SIA) in their voluntary efforts to reduce high global warming potential (GWP) greenhouse gas emissions by following a pollution prevention strategy. As far back as 1996, Intel and the U.S. Semiconductor Industry Association (SIA) formalized an early voluntary commitment for PFC reduction in a memorandum of understanding (MOU) with EPA. This is believed to be the first voluntary industry action in the world aimed at reducing GHG emissions. That commitment entailed data gathering and emissions reduction efforts. This was followed by a second MOU whereby SIA member companies agreed to a hard target to reduce absolute PFC emissions 10% below 1995 levels by the year 2010. This second MOU has been embraced in other regions around the world as part of an international semiconductor industry voluntary agreement through the World Semiconductor Council (WSC).*  *The semiconductor industry continues to employ a hierarchy in development of PFC emission reduction technology structured around the pollution prevention concepts of reduction, replacement, re-use/recycle, and abatement. These development areas are as follows:*  *1. Process optimization/alternative processing—reduces the amount of PFCs that are used and emitted*  *2. Alternative chemistries—reduces or eliminates emissions*  *3. Capture/recovery—re-uses or recycles PFCs*  *4. Abatement—destroys, reduces, or eliminates PFC emissions so they are not emitted*  *Intel met the goal to reduce company-wide absolute PFC emissions 10% below 1995 levels by the year 2010 in spite of the fact that manufacturing volumes have increased roughly fourfold since 1995. This means that on a production basis, Intel has reduced its greenhouse gas emissions by nearly 80 percent as compared to 1995 levels. These emission reductions have come as a result of substantial investments of both time and money. As a result of Intel’s efforts to meet these voluntary agreements, current processes have already incorporated many steps to reduce emissions of global warming compounds. These actions include a mix of chemical substitution, process optimization and add on controls.*  *While PFC emission reductions have been an important focus for Intel, it also has taken other actions to reduce total greenhouse gas emissions. The existing D1D facility in Hillsboro, Oregon was constructed with a heat recovery system on the boilers that reduces their natural gas consumption (and subsequent CO2 emissions) by more than 50% from a similar size fab without heat recovery. Intel has dedicated funds to energy conservation and the site has implemented a number of other energy conservation projects that have helped reduce natural gas consumption. As a result of these actions, total greenhouse gas emissions at the Oregon campus have seen a decline similar to the one seen for Intel-wide PFC emissions (see figure 2). This has occurred despite an increase in manufacturing activity at the Oregon site of more than 3 times since 2000.*  *Based on the work that Intel has done over the years to reduce PFC emissions and Intel’s commitment to continue this downward trend, DEQ has determined that requiring Intel to apply for a Prevention of Significant Deterioration permit would not reduce greenhouse gas emissions any further. Therefore, adopting rules to align with the Supreme Court decision not to require Prevention of Significant Deterioration permits on the basis of greenhouse gas emissions alone will not have an effect on greenhouse gas emissions.*  *DEQ determined Intel already operates emission control systems that would very likely be considered Best Available Control Technology, so there is nothing to be gained from making the proposed change.4*  *DEQ did not change the proposed rules in response to this comment.*  *4http://www.epa.gov/semiconductor-pfc/index.html* |

| **List of People Submitting Comments (by Commenter Number)** | | | | |
| --- | --- | --- | --- | --- |
| **Commenter Number** | **Name** | **Affiliation** | **Receive date** | **Commenter submitted comments under the following categories in the *Summary of comments and DEQ responses* section above** |
| 1 | Howard Ashley | None |  | 11.6 |
| 2 | John Ledger | Associated Oregon Industries | 08/28/14  09/15/14 | 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.39, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 3 | Mike Riley | ATI Primary Titanium Operations | 09/02/14 | 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.9, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 4 | Mike Riley | ATI Specialty Alloys & Components | 09/02/14 | 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.39, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 5 | Robert Bailey | None | 08/18/14 | 11.6 |
| 6 | Myra Beeler | None | 08/17/14 | 11.6 |
| 7 | Russell Strader | Boise Cascade Wood products | 08/28/14 | 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.30, 1.40, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 6.21, 9.6, 10.1 |
| 8 | Michael Byrne | None |  | 11.3 |
| 9 | Rev. Caren Caldwell | None | 08/22/14 | 6.18, 11.6 |
| 10 | Eric Canon | None |  | 6.18, 11.6 |
| 11 | Pat Clark | None |  | 6.18, 11.6 |
| 12 | Jess Brown | Collins Companies | 08/28/14 | 1.1, 3.1, 3.3, 4.1, 4.3, 6.2, 6.10, 6.20 |
| 13 | Darren Nichols | Columbia River Gorge Commission | 08/27/14 | 1.26 |
| 14 | Kristina DiPaola | None | 08/27/14 | 6.18, 11.6 |
| 15 | Russell A. Dondero | None | 08/17/14 | 6.18, 11.6 |
| 16 | Paul & Stephanie Edwards | None | 08/17/14 | 6.18, 11.6 |
| 17 | Jules Elias | None | 08/17/14 | 11.6 |
| 18 | Mildred Estrin | None | 09/02/14 | 6.18, 11.4 |
| 19 | Val Evers | None | 08/17/14 | 11.6 |
| 20 | Drew Gilpin | Evraz | 08/28/14 | 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.30, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 21 | Dale Feik | None | 08/17/14 | 11.6 |
| 22 | Linda Feik | None | 08/17/14 | 11.6 |
| 23 | Anne Ferguson | None | 08/17/14 | 6.18, 11.6 |
| 24 | Richard Till | Friends of the Columbia Gorge | 08/28/14  09/15/14 | 1.5, 1.7, 1.25, 1.26, 1.27 |
| 25 | Steve & Marilyn Hall | None | 08/18/14 | 6.18, 11.6 |
| 26 | The Rev. Heather Lynn Hanson | None | 08/17/14 | 6.18 |
| 27 | John Hayes | None |  | 6.18, 11.6 |
| 28 | Gitanjali Hursh | None |  | 11.2 |
| 29 | Rafael Ortega | IQ Collision Center Inc |  | 11.5 |
| 30 | Sandra Hicks | Intel | 09/15/14 | 6.18 |
| 31 | Max Hueftle | Lane Regional Air Pollution Agency | 08/28/14 | 1.35 |
| 32 | Warren Lancaster | None |  | 11.6 |
| 33 | Jim Lubischer | None | 08/27/14 | 6.18, 11.6 |
| 34 | Rudy Marchesi | None | 08/18/14 | 6.18, 11.6 |
| 35 | Peter Nelson | Marc Nelson Oil Products |  | 9.7 |
| 36 | Fred Marsh | None | 08/17/14 | 11.6 |
| 37 | Bonnie McDowell | None | 08/28/14 | 6.18, |
| 38 | Martha Moore | None | 09/12/14 | 9.1, 9.2, 9.3, 9.4, 9.5, 9.6 |
| 39 | Tonnie Cummings | National Park Service |  | 1.6 |
| 40 | John Krallman | Neighbors for Clean Air/ Northwest Environmental Defense Center/Columbia Riverkeeper | 08/28/14 | 1.4, 1.36, 2.1, 4.1, 4.2, 4.3, 5.1, 6.16, 7.1, 10.1 |
| 41 | Shanna Brownstein | NW Natural | 08/28/14 | 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.39, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 42 | Kathryn VanNatta | Northwest Pulp & Paper Association | 08/28/14 | 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.39, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 43 | Janet A. Gillaspie | Oregon Association of Clean Water Agencies | 08/26/14 | 1.13, 3.2, 3.3 |
| 44 | Lincoln Cannon | Oregon Forest Industries Council | 08/28/14 | 1.1, 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.39, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 45 | Karin  Pfeiffer-Hoyt | None | 08/27/14 | 6.18, 11.6 |
| 46 | Sam Hartfield/David Breen | Port of Portland | 08/28/14 | 1.32, 1.33, 1.34, 3.1, 3.4, 6.2, 10.2 |
| 47 | Ray Hendricks | PGE | 08/28/14 | 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.39, 1.39, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 48 | Kristana Lee | Roseburg Forest Products | 08/27/14 | 1.2, 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.39, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 49 | Bob Sagar | None |  | 11.6 |
| 50 | Del Schrag | None |  | 11.6 |
| 51 | Jack  Timmons | None | 08/19/14 | 6.18, 11.6 |
| 52 | Debra Suzuki | US Environmental Protection Agency | 08/20/14 | 1.36, 6.14, 6.15 |
| 53 | James Pena | US Forest Service | 08/28/14 | 11.6 |
| 54 | Loren Waltz | None | 08/17/14 | 11.6 |
| 55 | Ruth and William Warren | None | 08/17/14 | 11.6 |
| 56 | Paul Burns | Waste Management | 08/14/14 | 1.16, 1.23, 1.37, 6.18 |
| 57 | Frank E. Holmes | Western States Petroleum Association (WSPA) | 08/28/14 | 1.8, 1.12, 1.31, 3.2, 9.8, 10.2, 11.1 |
| 58 | Dale Wonn | Weyerhaeuser (AOI) | 09/15/14 | 1.3, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.17, 1.18, 1.19, 1.20, 1.21, 1.22, 1.24, 1.26, 1.28, 1.29, 1.30, 1.31, 1.38, 1.39, 1.40, 2.2, 2.3, 3.1, 3.2, 3.3, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, 6.12, 6.13, 6.17, 6.18, 6.19, 6.20, 9.6, 10.1 |
| 59 | Sharon Genasci | None |  | 11.6 |