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| **No.** | **Commentator** |  |
| 1 | Associated Oregon Industries (AOI) |  |
| 2 | Bailey, Robert |  |
| 3 | Boise Cascade Wood products (BCWP) |  |
| 4 | Byrne, Michael |  |
| 5 | Caldwell, Rev. Caren |  |
| 6 | Canon, Eric |  |
| 7 | Clark, Pat |  |
| 8 | Collins Companies |  |
| 9 | Columbia River Gorge Commission |  |
| 10 | Columbia Riverkeeper/NEDC/Neighbors for Clean Air |  |
| 11 | DiPaola, Kristina |  |
| 12 | Dondero, Russell A. |  |
| 13 | Edwards, Paul & Stephanie |  |
| 14 | Estrin, Mildred |  |
| 15 | Feik, Dale |  |
| 16 | Ferguson, Anne |  |
| 17 | Friends of the Columbia Gorge |  |
| 18 | Genasci, Sharon |  |
| 19 | Hall, Steve & Marilyn |  |
| 20 | Hanson, The Rev. Heather Lynn |  |
| 21 | Hayes, John |  |
| 22 | Hursh, Gitanjali |  |
| 23 | Intel |  |
| 24 | Lubischer, Jim |  |
| 25 | Marchesi, Rudy |  |
| 26 | Marsh, Fred |  |
| 27 | Moore, Martha |  |
| 28 | Nelson, Peter |  |
| 29 | Northwest Pulp & Paper Association (NWPPA) |  |
| 30 | NW Natural |  |
| 31 | Oregon Association of Clean Water Agencies (ACWA) |  |
| 32 | Oregon Forest Industries Council (OFIC) |  |
| 33 | Ortega, Rafael |  |
| 34 | Pfeiffer-Hoyt, Karin |  |
| 35 | PGE |  |
| 36 | Port of Portland |  |
| 37 | The National Park Service |  |
| 38 | Timmons, Jack |  |
| 39 | US Forest Service (USFS) |  |
| 40 | Vance, Rob |  |
| 41 | Warren, Ruth and William |  |
| 42 | Western States Petroleum Association (WSPA) |  |
| 43 | Weyerhaeuser |  |

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| No. | Comment |
| 1 | Mildred Estrin:  I am 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!  Surely, the DEQ cannot lower standards that it has been formed to protect. Please tell me that I am wrong and set my mind at ease. |
| 111 | Gitanjali Hursh:  I have lived in Oregon for 35 of my 41 yrs. In recent years I have developed asthma & I can't help but wonder if moving back into SE, near Johnson Creek & Precision Cast parts has something to do with my half lung capacity. I understand that PCP might provide local jobs but at the cost of what? Stricter regulations on air pollutants is a no brainer. |
| 112 | Michael Byrne:  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" You know the statistics for asthma and autism... please lower the allowable levels of "neurotoxins" in our air. Please take into consideration the cumulative effects of concentrations in neighborhoods and the "spike phenomenon" where total releases remain within limits, but concentrated bursts create poor air quality We must do this for our children. Thank you.  Please consider the cumulative effect of all the neurotoxins in any given neighborhood. Some air sheds are already overloaded. Spikes occur frequently in the manufacturing process, and may be below within allowable limits, but nonetheless create unhealthy air situations when they occur. No single release should be above a set level. Please do this for the children. |
| 2 | Friends of the Columbia Gorge:  The DEQ’s draft revisions would modify the air quality rules governing projects that would affect air quality related values in the Columbia River Gorge. Friends recommends that the DEQ use this opportunity to provide greater clarity on how those rules should be implemented to protect air quality in the Gorge. |
| 42 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), Port of Portland, The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ should not change the current definition of “categorically insignificant activity,” which includes “[n]atural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr.” OAR 340-200-0020(20)(d). Emissions from such equipment are insignificant. It would be inappropriately costly (to sources and of the Department’s limited resources) to subject this equipment to the full extent of regulation under the state’s air quality rules.  DEQ proposes to limit the small natural gas and propane burning equipment qualifying as a categorically insignificant activity. This would dramatically reduce the universe of small natural gas and propane burning equipment qualifying as categorically insignificant. Under the proposed language, 2.0 million Btu/hour natural-gas fired hot water heaters used for heating a dozen of buildings will no longer qualify as categorically insignificant only because the facility also operating a single natural-gas fired 40 million Btu/hour boiler for industrial processes. DEQ’s proposed language will subject (for the first time) a vast array of equipment with truly trivial emissions to regulation, with all attending costs and administrative burdens, but without any proportionate benefit to human health or the environment. Most problematic, every one of those 2.0 million Btu/hour water heaters will now require a notice of construction (NOC). Such a requirement would be administratively impossible for sources to implement. The installation and modification of minor heating equipment (whether natural gas or propane-fired) typically occurs as routine maintenance activity completed without sufficient advance planning or documentation to enable preparation of a NOC. It would be an imprudent use of the state’s limited resources to require the Department to review a NOC for every hot water heater (and similar device) installed in every stationary source statewide. DEQ should either retract its revisions to this proposed categorically insignificant activity category or revise OAR 340-210-0205(2) to add a new subsection (f) which states:  “(2) OAR 340-210-0205 through 340-210-0250 do not apply to the following sources:”  \* \* \*  “(f) Natural gas or propane burning equipment with a heat input less than or equal to 2.0 million Btu/hour.” |
| 78 | The Collins Companies, The Oregon Forest Industries Council (OFIC), Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA) (4):  OFIC objects to the Department’s proposed revisions to the categorically insignificant activity category of natural gas and propane equipment less than or equal to 2.0 MMBtu per hour. The Department has proposed language that would prohibit a facility from being able to manage any of its natural gas fired units as categorically insignificant if any single gas-fired piece of equipment anywhere on site is rated at more than 2.0 MMBtu per hour. As a result of this proposed language, a forest products company with a 30 MMBtu per hour natural gas fired boiler would be required to treat a tiny gas-fired comfort heater as a fully regulated emissions source while a 650 MMBtu per hour coal-fired power plant would not. There is no sound policy underlying such a distinction.  In addition, the proposed rule language would require that a source inventory every single gas-fired appliance on site (including water heaters, comfort heaters, cook stoves, decorative fireplaces) in order to determine whether their emissions could conceivably exceed 1 ton per year of any pollutant. This alone is an enormous administrative task regardless of the outcome. If the collective plant-wide emissions could conceivably exceed 1 ton per year, then all of these devices, right down to the smallest hot water heater, would have to be fully permitted and the installation of a new hot water heater would require DEQ’s full permitting review. There is no reasonable policy purpose underlying this proposed rule change.  Oregon’s existing categorically insignificant activity is already substantially more stringent than what is defined as insignificant in Washington. For a source in Washington, any combustion source firing natural gas, butane, propane or LPG is considered insignificant if it is rated at less than 5 MMBtu per hour. No assessment is required under Washington law of how many of these units are on site. Washington’s listing of these units as categorically insignificant was upheld by the Ninth Circuit and so clearly there is a legitimate legal basis for these higher insignificance thresholds. |
| 29 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC) Oregon Association of Clean Water Agencies (ACWA), The Western States Petroleum Association (WSPA), NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  Insignificant emission units – small natural gas and oil fired units could require permitting that is currently exempt from permitting. It is important to note that many wastewater treatment plants are REQUIRED by the DEQ water-quality permitting program to install and maintain backup generator sources of power.  DEQ should not impose the more restrictive definitions of Categorically Insignificant Activities (OAR 340-200-0020) and corresponding additions to the list of categories requiring an ACDP (OAR 340-216-8010), because they appear to have little or no benefit but increase permitting burdens. |
| 28 | PGE:  PGE does not support changes in the definition of emergency generators and pumps in OAR 430-0200-0020(23)(uu) to include emergency engines or pumps greater than 500 hp or with aggregate emissions greater than de minimis thresholds. The regulatory burden will be disproportionally large given the insignificant emissions of such units. |
| 29 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC) Oregon Association of Clean Water Agencies (ACWA), The Western States Petroleum Association (WSPA), NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ proposed revisions to the categorically insignificant activity category for emergency generators and pumps are overly broad and overreaching. DEQs 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. To fix this, AOI asks DEQ to make the following two edits to its proposed definition of the emergency generator categorically insignificant activity category:  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. In particular, we request that part A be revised to state: “The actual aggregate emissions from stationary emergency generators and pumps over a calendar year are greater than the de minimis level for any regulated pollutant.”  The vast majority of sources lack any incentive to actually operate their emergency generators for any longer than is necessary. For the overwhelming majority of sources, estimating emergency generator emissions by reference to the 100 total readiness testing hours of operation allowed by applicable NSPS or NESHAP requirements would grossly exaggerate emissions from those units. Such sources (and DEQ) would bear new costs and regulatory burdens (e.g., construction approvals, permit modifications, emission factor development) disproportionate to the insignificant emissions from those units. To avoid these unintended consequences, DEQ should define categorically insignificant emergency generators by reference to the actual emissions from those units. |
| 34 | Columbia Riverkeeper/NEDC/Neighbors for Clean Air:  DEQ should revise its rule requiring notification of EPA of permit applications subject to NSR to render it enforceable.  DEQ’s regulations require permit applicants subject to NSR requirements to submit a copy of the NSR permit application directly to EPA. OAR 340-216-0040(8). History has demonstrated that permit applicants fail to comply with this regulation, without consequence. For example, as part of an application to modify the air quality permit for the Lakeview Cogeneration facility in Lakeview, the applicant failed to send a copy of their air permit application to EPA. Once notified of this omission, DEQ still issued the permit modification but committed to evaluate ways to ensure that the requirement is met by either (1) revising the application forms for NSR permit actions, or (2) changing this rule.  DEQ also committed to notifying EPA by separate email or letter for future applications subject to NSR. See also OAR 340-209-0060(4)(d) (requiring DEQ to give notice of NSR actions to EPA). This notification is essential for determining the requirements for sources in maintenance areas and for getting EPA review and comment. OAR 340-224-0060.  Yet DEQ’s proposed revisions merely reiterate the permit applicant’s individual responsibility to send NSR permit applications to EPA, with minor clarifications regarding the scope of information that must be submitted. DEQ has no way of enforcing this regulation or ensuring whether permit applicants comply. Commenters are unaware of any other action taken by DEQ to fulfill its 2013 commitment to ensure the requirement is met.  DEQ should require the permit applicant to copy EPA as part of its permit application to DEQ, or vice versa. This would ensure that both agencies are receiving the same application package, provide for enforcement of the notification requirement to EPA, and avoid burdensome permit processing on the agencies’ side (such as sending separate emails or letters of future NSR permit applications). |
| 37 | Columbia Riverkeeper/NEDC/Neighbors for Clean Air; Associated Oregon Industries (AOI); NW Natural; PGE; Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  The revisions for the Oregon’s PSD and Title V permit requirements do not follow the ruling set in UARG v. EPA. Any decision other than immediate incorporation of the Supreme Court’s mandate into the Oregon rules would require that DEQ re-notice the rule package. DEQ’s notice fails to identify an intended action as required by ORS 183.335. Instead, the request broadly asks the public whether the Oregon rules should be left as is or changed. DEQ must issue a new notice and comment if DEQ wishes to make rules not required by UARG v. EPA.  *Response:* |
| 17  87 | Columbia Riverkeeper/NEDC/Neighbors for Clean Air/ Friends of the Columbia Gorge/Pat Clark:  DEQ should keep its current regulations on GHGs for PSD 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 to prevent adverse impacts from greenhouse gas emissions. Permits allow collection of data needed to find out current levels of greenhouse gas emissions from larger industrial sources; monitor any trends of greenhouse gas emissions over the next several decades and help to limit greenhouse gas emissions in Oregon.  The Collins Companies/Intel:  The commenters believe DEQ should amend its current air regulation to conform to the Supreme Court decision in UARG v. EPA. DEQ should also amend its air regulation to comply with EPA’s guidance document that followed the case. EPA made it clear that a facility does not trigger PSD where GHGs are the only pollutant that makes the source major or, at a major source, where GHGs are the only pollutant to exceed the significant emissions rate. Likewise, EPA said that a source would not be required to apply for a Title V permit where GHGs were the only pollutant emitted over the major source threshold. The commenters believe that Oregon should amend its regulation to similarly address GHGs. |
| 89 | Intel:  Intel believes that the language in the proposed temporary rule addresses sources that are not Federal Major Sources consistent with the federal approach. For that reason, Intel supports DEQ’s proposed rules and encourage DEQ to adopt them. If the proposed Division 224 language is adopted, it will be important edit OAR 340-224-0010(2) so that it is clear that GHGs do not trigger State NSR. |
| 96 | Associated Oregon Industry (AOI), The Oregon Forest Industries Council (OFIC), Boise Cascade Wood products (BCWP), NW Natural, PGE, The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  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 PSD if it triggers PSD for another pollutant. The PSD application need only address Best Available Control Technology (BACT) for GHGs. 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 PSD 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.  Because of the manner in which GHG netting basis is established and the fact that GHG PSELs are established at the source’s potential to emit, this sort of scenario is quite plausible. This source is a Federal Major Source due to the NOx PSEL exceeding 250 tpy. If this source submitted a permit application seeking to reduce its NOx emissions by 5 tpy and increase its GHG emissions by 1 tpy, then under the temporary rule it would trigger PSD for GHGs. GHGs would be assumed to be a regulated air pollutant under OAR 340-224-0010(5)(b) because (a) the source is a Federal Major Source for NOx, and (b) there was a GHG increase and the difference between netting basis and PSEL exceeds 75,000 tpy. This would be considered a major modification under 340-200-0020(71) because a regulated air pollutant (GHGs) would have a PSEL that exceeds the netting basis by more than 75,000 tpy CO2e. This would not occur under the Supreme Court’s decision because the project did not trigger PSD for NOx. We do not believe that this difference was intended by the Department and request that the rules be amended to make clear that in order for GHGs to be regulated under OAR 340-224-0010(5)(b), the source must be a Federal Major Source for a non-GHG pollutant, trigger PSD for a non-PSD pollutant, and as a result of the current project exceed the GHG netting basis by 75,000 tpy CO2e or more. |
| 38 | Oregon Association of Clean Water Agencies (ACWA), Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), the Collins Companies, The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA)/ Weyerhaeuser NR Company (8):  DEQ should not change OAR 340-200-0020(23)(bbb). DEQ has proposed, without giving explanation, 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 used by sources to remove petroleum oils from storm water or wastewater to lose their status as categorically insignificant units. The proposed threshold, of 400,000 gallons per year, would apply to effluent treatment systems treating less than 1 gallon per minute, irrespective of air emissions from such systems. These systems are typically designed to prevent oil and other volatile liquids from reaching storm water or wastewater outfalls. These systems have the potential to emit volatile organic compounds (VOC), but at trivially low levels due to the low vapor pressure of oil. Under the Department’s proposal, sources with qualifying systems would -- despite the lack of VOC emissions from those units -- be required to account for any VOC emissions from those systems in their PSEL calculations and to seek construction approval before installing or modifying any qualifying oil/water separator. |
| 40 | Ruth and William Warren, Fred Marsh, Paul & Stephanie Edwards, Robert Bailey, Steve & Marilyn Hall, Rudy Marchesi, Jim Lubischer, Eric Canon, Dale Feik, Anne E Ferguson, Russell A. Dondero, The Rev. Heather Lynn Hanson, Jack Timmons, Rev. Caren Caldwell, Kristina DiPaola, Karin Pfeiffer-Hoyt, John Hayes, Sharon Genasci (18):  Add “Manufacturing - Semiconductor and related devices (SIC Code 3674)” to Section (66) "Federal Major Source" part (e) so that Corp. will be classified as a Major Source and be required to adhere to more stringed air quality regulations. Intel and other semiconductor manufacturing plants should be made to use the highest, Best Available/Achievable Control Abatement Technology. |
| 43 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  AOI requests that DEQ reconsider its approach to regulating emissions from distillate oil, kerosene or gasoline fuel-burning equipment rated at less than or equal to 0.4 million Btu/hour. DEQ should either remove its proposed revisions to this categorically insignificant activity category or, at the very least, revise OAR 340-210-0205(2) to make clear that construction approval is not required for insignificant distillate oil, kerosene or gasoline fuel-burning equipment.  Otherwise, the proposed regulations will have real impacts on regulated sources. For example, the fact that a source had even a single oil-fired unit rated at greater than 0.4 million Btu/hour would mean that none of the de minimis oil-fired comfort heaters (rated well below 0.4 million Btu/hour) that source may also operate would qualify as categorically insignificant. That same source would need to obtain construction approvals before installing or modifying any of its oil-fired combustion devices, irrespective of those units’ emissions. These changes impose even more costs and administrative burdens on sources without any discernible benefit to human health or the environment.  To that end, the Department could add a new subsection (g) which states:  “(2) OAR 340-210-0205 through 340-210-0250 do not apply to the following sources:”  \* \* \*  “(g) Distillate oil, kerosene, or gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hour.” |
| 45 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  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. |
| 27 | Associated Oregon Industry (AOI), Boise Cascade Wood products (BCWP) PGE, NW Natural, The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  The Department’s proposed list of source categories that require an ACDP (OAR 340-216-8010) create two problems:  First, 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.  AOI thus requests that DEQ change the permitting threshold for this source category 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.”  Second, source category number 89 on Part B of the list would apply to any portable sources the Department determines present “an air quality concern,” “significant malodorous emissions,” or actual emissions over specified levels. DEQ lacks jurisdiction to regulate portable, mobile or nonroad sources unless they are or are part of a stationary source.  Accordingly, we request that DEQ either delete proposed source category 89 entirely or revise it to make clear that it only applies to portable sources that are or are part of a stationary source. |
| 48 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  AOI requests that DEQ delete OAR 340-214-0114(5) from this rulemaking. The revisions to OAR 340-214-0114(5) would require all sources requiring an air permit (no matter their size or permit simplicity) to 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 in good faith with the two-year retention condition vulnerable to non-compliance with DEQ’s new five-year recordkeeping rule. DEQ has not explained the reasons to the change. |
| 49 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ should remove the proposed requirement to send both State NSR permit applications and major NRS applications to EPA. Our experience indicates that EPA is not interested in receiving NSR applications as EPA has no involvement with the implementation of Oregon’s SIP approved PSD, Maintenance and nonattainment NSR programs. AOI believes that DEQ has inadvertently and unintentionally expanded the requirements for sharing permit applications to include State NSR applications. See OAR 340-216-0040(6). |
| 51 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ is proposing a major change in PSEL compliance as part of the proposed rules. DEQ is proposing in OAR 340-222-0080(6) that regardless of the PSEL compliance requirements specified in the permit, emissions may be calculated using other procedures. This is absolutely contrary to the policy DEQ followed for years, where PSEL compliance was determined by the methodology stated in the permit. |
| 50 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ should not delete the so-called PSEL Rule in OAR 340-222-0041 that for many years has been the basis for determining the applicable requirements where a PSEL increase was requested. Simply referencing Division 224 in the proposed OAR 340-222-0041(4) leaves tremendous confusion on the applicability of Division 224. |
| 52 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ is proposing to significant increase the stringency of Division 224. Under the proposed rules, DEQ is suggesting to delete the minor NSR provisions and instead state in OAR 340-222-0041(4) that any PSEL exceeding the netting basis by a significant emission rate or more will be addressed through Major or State as specified in OAR 340-224-0010. DEQ may have intended OAR 340-222-0041(4) to serve as the “gate keeper” provision to OAR 340-224-0010, but as the proposed language is unclear and confusing and is not understood to be a “gate keeper” only.  Further, in OAR 340-224-0010(2) where the proposed rules require sources not subject to major NSR and requesting any of the actions in OAR 340-222-0020(2)(a) - (c) to undergo State NSR. The second of the three actions triggering State NSR involves increasing a PSEL to an amount equal to or greater than the SER. As written, this means that by requesting to increase a NOx PSEL to 40 tpy or more in a nonattainment area--regardless of the source’s netting basis--that source will trigger nonattainment State NSR and be required to provide offsets and demonstrate a net air quality benefit. This is dramatically more stringent than the existing program where the analysis focuses on whether the requested PSEL exceeds the netting basis by an SER or more and not just whether the PSEL exceeds the SER. AOI hopes that this was unintended. However, if OAR 340-222-0041(4) is supposed to be the gatekeeper to State NSR, we fail to see what function OAR 340-224-0010(2) serves.  If it is just duplication of OAR 340-222-0041(4), AOI believes that any court interpreting the rules will conclude that when an agency repeats itself in two different places the intent was that the two sections have different meanings. In addition, the two provisions (222-0041(4) and 224-0010(2)) say different things. Therefore, a very plausible reading of OAR 340-224-0010(2) is that it serves as a separate and perhaps supplementary gateway into State NSR. This reading is reinforced by the wording of OAR 340-224-0010(2) which reads as if it is the gatekeeper provision, not OAR 340-222-0041(4).  DEQ’s language is very confusing and internally inconsistent. We encourage DEQ to 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, we request that it be made very clear in the rules that a source does not consult Division 224 unless it is requesting a PSEL that exceeds the netting basis by a significant emission rate or more. We believe that this will require significant reworking of the rule. |
| 53 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA)/ Weyerhaeuser NR Company (5):  DEQ should clarify the language within the PSEL rules (Division 222) where the role of emissions from categorically insignificant activities is stated. OAR 340-222-0035(5) states that “emissions from categorically insignificant activities must be considered when determining NSR or PSD applicability under OAR 340 division 224.” However, Division 224 has been expanded to include minor NSR as well as major NSR. The proposed language would greatly expand the stringency of minor NSR in that emissions from categorically insignificant activities are not considered as part of the minor NSR program. Therefore, we suggest that DEQ revise OAR 340-222-0035(5) as indicated below:  …emissions from categorically insignificant activities must be considered when determining major NSR or PSD applicability under OAR 340-224-0040 through 0070. division 224.” |
| 54 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ should not adopt any changes to the current definition of “Major Modification” (OAR 340-224-0025). DEQ is proposing to change the definition to require that sources perform a netting basis to potential to emit (PTE) comparison to determine the emissions increases due to physical changes and changes in method of operation.  First, this significant change ignores the clear wording of the existing rule (and proposed 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 PTE, not the difference between baseline and PTE.  Second, 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.  Third, the definition specifies that in making this set of calculations, the categorically insignificant emissions must be included in the calculations. However, categorically insignificant activities do not have a netting basis. Therefore, this requirement does not make sense. |
| 55 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  AOI objects to expanding OAR 340-224-0030(3) to include minor NSR construction approvals. Adding the 18 months construction deadline to permits other than major NSR permits is a significant expansion of the program, making Oregon less attractive to businesses. More so, DEQ has not shown an environmental benefit from those stringent proposed rules. DEQ should not to proceed with this proposed change and to retain the current approach where the 18 months clock in OAR 340-224-0030(3) is limited to sources permitted under major NSR. |
| 56 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  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 because site conditions may force changes to the final design, minor changes to the construction are to be expected. It is impractical to halt construction for every minor change, and the new rule should only be applied to significant changes of DEQ so desires. |
| 57 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ should delete the proposed requirement in OAR 340-224-0030(5)(a)(A) which specifies that a source seeking a first extension must update its control technology analysis. DEQ should not deviate from federal guidance on the granting of extensions of major NSR permits. On January 31, 2014, EPA (OAQPS) issued a memorandum specifically addressing what is appropriate for a permitting authority to require before granting an extension from the 18 month “commence construction” deadline.  There is no reason why DEQ should be more stringent than EPA in regards to legitimate permit extension requests. The 18 month construction period is so short that, as EPA expressly acknowledged, this is not a meaningful requirement and it imposes a significant burden on the source and agency alike. |
| 58 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ should revise OAR 340-224-0010(2) so that it does not require State NSR sources to comply with OAR 340-224-0038. OAR 340-224-0038 requires that a source subject to NSR assess secondary emissions. This requirement has never been imposed on minor NSR permittees before and it is a significant increase in stringency to do so through this rulemaking. |
| 59 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  The Maintenance NSR provisions in OAR 340-224-0060 contain several alternatives to providing offsets and having to demonstrate a net air quality benefit. Under the current rules, a source proposing a modification in a CO maintenance area is exempt from the requirement to obtain offsets and demonstrate a net air quality benefit if the source can demonstrate through modeling that it will not cause or contribute to an air quality impact equal to or greater than 0.5 mg/m3 (8 hour average) and 2 mg/m3 (1-hour average). Similar provisions exist for PM10 maintenance areas.  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, as the proposed rules do, that the source “comply with the limits in OAR 340-202-0225” strongly suggests that there is an ongoing periodic monitoring component. We fail to see the benefit in moving these thresholds to Division 202 and we strongly object to characterizing them as limits. |
| 60 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  The pre-construction monitoring requirements in OAR 340-224-0070(1)(a) 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 PSD for PM10 and be required to perform ambient monitoring for GHGs or NOx. 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. We suggest that OAR 340-224-0070(1)(a)(A)(i) be revised accordingly. |
| 61 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA)/ Weyerhaeuser NR Company (5):  The proposed revisions to the rules appear to be missing language related to the use of priority offsets.  OAR 340-224-0530 discusses the use of priority offsets. OAR 340-224-0530(1) states that “priority sources are sources identified in OAR 340-204-0320 for the designated area.” However, OAR 340-204-0320 only identifies priority offsets for the Lakeview Sustainment Area. Nonetheless, OAR 340-240-0550 and OAR 340-268-0030(1)(f) discuss the use of Klamath Falls PM10 and PM2.5 priority offsets. It appears that Klamath Falls priority offsets should be identified in OAR 340-204-0320 in order to given meaning to these provisions. 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.  We suggest that DEQ revise the rules to clarify that this is not an impediment to the use of wood stove derived offsets. |
| 62 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  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. For example, OAR 340-224-0070(4)(b) requires that a source having a significant impact in any designated area must demonstrate a net air quality benefit. In this instant, the term “designated area” is intended to be used as if to mean designated nonattainment or maintenance. However, under the proposed OAR 340-200-0020 definition, a source impacting an attainment area will have to comply with the net air quality benefit requirements. At the very least, DEQ should carefully scrutinize its use of the term “designated area.” Finally, if DEQ really intends to extend net air quality benefit requirements to attainment or unclassified areas, AOI strongly objects as this is an extreme increase in rule stringency. |
| 63 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  The wording in OAR 340-225-0050(3) creates an unintentional conflict with OAR 340-225-0050(1). We understand that the intent of OAR 340-225-0050 is to state that a source triggering the modeling requirements in this section must demonstrate that its impacts are below the SILs and also demonstrate that those SILs are adequately protective. If this showing cannot be made, then the source must perform a competing source analysis as specified in OAR 340-225-0050(2). 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 -0050(3) duplicates what is stated in -0050(1) or it is imposing an entirely different requirement. As a basic canon of judicial regulatory review is that agencies do not repeat themselves, -0050(3) must be read to require an additional evaluation beyond the evaluation in -0050(1) which ensures protection of the AAQS and increment. That strongly suggests a competing source analysis. Because we do not believe that this is necessary where a source meets its obligations under -0050(1), we encourage DEQ to delete the proposed language -0050(3). |
| 64 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA) Weyerhaeuser NR Company / (6):  DEQ should not designate Columbia River Gorge Scenic Area as a federal Class I area by requiring (for the first time) sources to assess potential visibility and deposition impacts on the scenic area in OAR 340-225-0070(4)(b) and -0070(7). 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.” |
| 65 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  “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. This will result in the SO2 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. |
| 66 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  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.” |
| 67 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ proposes to expand the requirements applicable to marine loading of gasoline to include the marine loading of any VOC liquid with a true vapor pressure greater than 10.5 kPa (1.52 psia) that occurs in the Portland Air Quality Maintenance Area. DEQ provides no basis for this change and it is not clear why it is being included as part of this rulemaking, nor was the change discussed in any of DEQ’s public meetings. There also does not appear to be any basis for removing the flexibility in the current rules that allows a loading facility to request written approval from the DEQ to use an alternative monitoring method from the one identified in the rule.  DEQ should address this rule through a separate rulemaking. |
| 69 | Associated Oregon Industries (AOI), The Oregon Forest Industries Council (OFIC), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  DEQ is proposing that particulate compliance testing on biomass boilers be performed using only DEQ Method 5. Specifying only this test method is too limiting and does not allow the use of an alternative test method should there be a need or desire to use one. Just recently, testing of an Oregon biomass boiler identified substantial test interference where ammonia was injected as a control. This required the use of an EPA Conditional Test Method in order to obtain accurate emission results. Mandating the test method in the rules eliminates a much-needed flexibility. DEQ should add language to the rule that would allow a source to use an alternative test method if the alternative test method is approved by DEQ prior to conducting the test. |
| 71 | PGE, Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA) (3):  The proposed changes to Categorically insignificant Units appear to add an unnecessary complexity to the air-permitting program. The proposed changes will require significant accounting efforts for insignificant emission sources. Complete inventory of very small emission units will be a continuous process that will cause many repeated modification to the air permits to account for every new unit listed. The fees for continues routine permit modifications can quickly accumulate to considerable sums. If DEQ insists on regulation 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. |
| 72 | PGE:  Division 224 and the NSR program pose too many potential issues and should be retained for future rulemaking to allow true public input. The changes to the definition of Major Modification are difficult to follow and are a significant departure from the current method of assessing major modifications in Oregon. PGE requests that current definition of Division 200 remain for this rule making. In addition, the proposed new sections in division 224 for State NSR are unwieldy and duplicative. It would be less confusing and more efficient for both Major NSR and State NSR programs to reference procedure sections of the rules where appropriate. The proposed modeling requirements for State NSR sources are too costly and complex for sources not triggering the federal program where modeling and extensive analysis of impacts is warranted. PGE does not support the revisions proposed to create a complex and expensive minor NSR program in Oregon. Current regulations are adequate to protect air quality from degradation by industrial source emissions. |
| 73 | PGE:  PGE believes the proposed requirements for extension applications under OAR 340-224-0030 are more stringent than current EPA guidance. According to EPA, redoing or reviewing the BACT analysis should not be necessary for the first extension request. Pollution control technologies are unlikely to be available within the first 18-month period. PGE requests that DEQ remove the BACT requirement for the first extension request. PGE 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. |
| 74 | PGE:  DEQ should change OAR 340-224-0070(1)(a)(A)(i) to state: “The analysis must include continuous air quality monitoring data for any regulated pollutant *subject to this rule* that may be emitted by the source, except for volatile organic compounds.” As currently proposed, this requirement could apply to monitoring of pollutants not subject to PSD but emitted by the source. |
| 79 | The Collins Companies, The Oregon Forest Industries Council (OFIC), Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA) (4):  Collins similarly objects to DEQ’s proposed revisions to the categorically insignificant activity category of distillate, kerosene and gasoline-fired equipment less than or equal to 0.4 MMBtu per hour. DEQ has proposed language that would prohibit a facility from being able to manage any of its distillate, kerosene or gasoline-fired units as categorically insignificant if any single piece of liquid fuel-fired equipment anywhere on the mill site is rated at more than 0.4 MMBtu per hour. As with the gas-fired units, there is no sound policy underlying such a distinction.  In addition, the proposed rule language would require that we would have to inventory every single distillate, kerosene and gasoline-fired device on site--no matter how small--in order to determine whether their emissions, in aggregate, could conceivably exceed 1 ton per year of any pollutant. This alone is an enormous administrative task regardless of the outcome. If the aggregate emissions could conceivably exceed 1 ton per year, then all of those devices, right down to the comfort heaters in our maintenance shops, would have to be fully permitted and the installation or modification of a heater would require DEQ’s full permitting review. There is no reasonable policy purpose served by this proposed rule change. DEQ has had this categorically insignificant activity unchanged in its rules for 22 years and we do not see any new development that justifies its revision. The burden placed on us and DEQ are not justified by any material environmental benefit that DEQ failed to identify 22 years ago when it adopted this provision.  Existing categorically insignificant activity is already substantially more limited than what is defined as insignificant in Washington. For a source in Washington, any combustion source firing kerosene or distillate is considered insignificant if it is rated at less than 1 MMBtu per hour and this increases to 5 MMBtu per hour for space heaters and hot water heaters. Washington’s listing of these units as categorically insignificant was upheld by the Ninth Circuit and so clearly there is a legitimate legal basis for these higher insignificance thresholds. |
| 80 | The Collins Companies, The Oregon Forest Industries Council (OFIC), Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA) (4):  Collins requests that DEQ use this opening of OAR 340-200-0020 to incorporate the recent holdings of the Sixth Circuit and the D.C. Circuit into the Oregon regulations defining the term “adjacent.” In 2012, the Sixth Circuit held that it was unreasonable to read the term “adjacent” to refer to interdependence as opposed to simply physical proximity. Summit Petroleum v. EPA, 690 F.3d 733 (6th Cir. 2012). The D.C. Circuit held in May of this year that the Sixth Circuit’s decision applied nationally and that EPA cannot direct otherwise. National Environmental Development Associations v. EPA.  Consistent with these two decisions, DEQ should 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. Given that DEQ represented to the EQC and the public that the intent of the definition was to make it consistent with EPA’s guidance, and EPA’s guidance has been soundly rejected by the courts, DEQ should revise its definition of “adjacent” accordingly. |
| 81 | The Collins Companies, The Oregon Forest Industries Council (OFIC), Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA) (5):  DEQ is proposing an unworkable change to the definition of “major modification” moved out of OAR 340-200-0020 and into OAR 340-224-0025. In order to determine if a major modification has occurred, the proposed rules require us to “subtract the unit’s portion of the netting basis from its post-change potential to emit...” This new language wrongly assumes that we would be able to identify the portion of the netting basis that is specific to each emission unit.  With the exception of the Upper Columbia Mill, all of Collins’ Oregon facilities have been in existence since prior to 1978 and hold baseline and netting basis. This netting basis derives from the baseline emission rates documented and agreed to between DEQ and our facilities as far back as 30-plus years ago. While the netting basis is clearly carried in our permits and review reports, there is typically no record of how the netting basis is assigned on an emission unit specific basis. Therefore, we cannot perform the calculation DEQ is proposing to require.  The proposed language would also significantly increase the stringency of the definition of “major modification.” The proposed language is intended to greatly increase the emissions attributable to a physical change by shifting the comparison from the emissions increase arising from the actual change to the emissions difference between the post-change potential to emit and what the unit was emitting in the baseline period (typically 1978). Even if we could identify the emission unit-specific portion of the netting basis, this comparison distorts the clear language of the existing rule. The proposal is a substantial increase in stringency that could severely impact us. Notwithstanding this fact, DEQ is presenting the rule as clarification that has no commensurate change in stringency. We object to this characterization by DEQ as misleading and object to the proposed language as an inappropriate increase in stringency that is not possible to implement. |
| 18 | Columbia Riverkeeper/NEDC/Neighbors for Clean Air:  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: nonattainment planning. While the Commenters understand that this planning takes time, energy, and money, failing to do so and relying instead on an untested program puts the health of Lakeview residents at risk. |
| 30 | Columbia Riverkeeper/NEDC/Neighbors for Clean Air:  DEQ’s proposal would make the current system more complex by adding two new designations: attainment/sustainment and nonattainment/reattainment. In addition, DEQ 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 believes that the new designations will help “major sources” in nonattainment areas that have met the ambient air quality standards to reach attainment more quickly, but choosing Lakeview as a sustainment area speaks to the contrary.  DEQ’s proposed sustainment and reattainment area designations are unneeded and overly complicated, preventing ordinary citizens from understanding them. The proposed rules use many cross-references and refer to different regulatory sections. Section 4b for example was not completely thought through or vetted. This can also potentially violate the anti-backsliding provisions of the Clean Air Act.  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. Instead of the one-size-fits-all approach proposed by DEQ, it should look at areas on a case-by-case basis to determine what, if any, requirements are no longer necessary achieve or maintain compliance.  The proposed sustainment and reattainment area designations are overly complicated, making citizen engagement or understanding next to impossible. The only area identified by DEQ as susceptible to use these programs is clearly a poor test case. It is unclear whether the sustainment area program is sufficient to actually help an area comply with the NAAQS, potentially putting an area in a limbo between attainment and nonattainment while Oregonians’ health is being affected. For these reasons, the Commenters urge DEQ to abandon the proposed changes to the New Source Review program until an actual need is identified.  The reattainment program also raises serious questions of whether the proposal complies with the anti-backsliding provisions of the Clean Air Act. The proposal categorically relaxes permitting requirements prior to redesignation as a maintenance area. This raises questions as to whether the proposal would weaken Oregon’s State Implementation Plan (SIP). DEQ has not provided any analysis of the program’s compliance with the Clean Air Act. |
| 31 | Columbia Riverkeeper/NEDC/Neighbors for Clean Air:  DEQ must not designate Lakeview as a state sustainment area. Lakeview has consistently exceeded the 24-hour PM2.5 NAAQS in the past three years and should be re-designated as a nonattainment area. Designating Lakeview as a sustainment area will allow the county to shirk the express requirements of the CAA.  Designating Lakeview as a sustainment area will postpone the in-depth assessment of the air quality issues in the region required for nonattainment areas, and thereby exacerbate data problems. Allowing continued growth of industrial emissions, while focusing on residential woodstoves, is unlikely to move Lakeview away from a violation of the PM2.5 24-hour NAAQS. As of this proposal DEQ does not have the extent of data necessary to definitely show that uncertified wood stoves are the problem, making their designation as priority sources problematic. DEQ makes no attempt to quantify emissions coming in from outside of the air shed, such as forest fires. Prescribed silvicultural burning is common in the winter months, and emissions from this type of activity looks very similar to and is likely categorized with the emissions attributed to residential wood stoves. And yet under the sustainment designation, new industrial emission sources would in fact replace rather than reduce emissions based on the 0.1:1 offsets ratio. This is a lower offset ratio 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. Industry emissions are not relatively constant year round; much like wood stoves, emissions from the wood products industry varies due to seasonal changes in fuel source. Utilization may vary depending on the season. 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 under section 107(d)(3)(A) in addition to any NAAQS violation when considering whether to redesignate Lakeview as nonattainment. 42 U.S.C. § 7407(d)(3)(A) (allowing EPA to consider “air quality data, planning and control considerations, or any other air quality related considerations [EPA] deems appropriate”). Thus the buffers themselves will become part of any redesignation decision by EPA. Not only that, but Lakeview’s request for redesignation from the Environmental Quality Commission cites to inaccurate data. |
| 83 | The Collins Companies, The Oregon Forest Industries Council (OFIC), Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA) (4):  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. DEQ’s proposal will change areas that have never been determined by EPA to be nonattainment into employment pariahs.  As proposed in OAR 340-224-0045, a major new source seeking to locate in a designated Sustainment Area would have to comply with all the extremely stringent PSD 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.  Lakeview, one area that DEQ proposes to designate as a Sustainment Area, suffers from air quality problems are driven by woodstove smoke and no amount of additional regulation can change the Lakeview Area’s air quality status. Yet the only way to attract natural gas to the town or to improve employment so people can afford to replace their woodstoves with newer lower-emitting models is if employment can expand. 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.  In addition, since February 2013, the Town of Lakeview, Lake County, DEQ, and Collins have been actively engaged in US EPA’s PM Advance Program thereby 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 be imposing additional regulations by way of establishing a “Sustainment Area” designation for the Lakeview area or any other local jurisdiction. |
| 84 | The Collins Companies, The Oregon Forest Industries Council (OFIC), Boise Cascade Wood products (BCWP), The Northwest Pulp & Paper Association (NWPPA) (4):  Collins does not object to the concepts underlying the proposed Reattainment Area rules. However, we are greatly concerned about the additional complexity that DEQ’s approach entails.  We agree that the current PSEL rule (OAR 340-222-0041(3)(b)(A)) should be revised so that minor sources are not required to demonstrate a net air quality benefit as a condition to increase their PSEL by a significant emission rate or more above netting basis. We believe that a much simpler means of achieving that same goal is to amend OAR 340-222-0041(3)(b)(A) to read “…the applicant must obtain offsets and demonstrate a net air quality benefit in accordance with OAR 340-225-0090 or demonstrate that the impacts are less than the significant impact levels at all receptors within the sustainment area.” We do not believe that there is any need to create a whole new section of the regulations to accomplish this relatively straightforward improvement. We support retaining the PSEL rule as it currently is structured with this improvement. That is simpler than DEQ’s creation of pages of new rules and relies upon a tried and true regulatory mechanism. |
| 25 | The Western States Petroleum Association (WSPA):  WPSA requests that DEQ remove the proposed changes in OAR 340-232-0110 that (1) expand applicability to “other volatile organic liquids with a vapor pressure greater than 10.5 kPa (kilopascals) (1.52 psia)” and (2) delete the option for facilities to request written approval from DEQ for alternative monitoring methods.  The proposed rule change will significantly harm existing activities at facilities that have been issued DEQ permits for those activities, mainly because existing air pollution control equipment for gasoline vapors cannot be applied to vapors from these other liquids. Facilities might be unable to adopt proposed regulations due to existing infrastructure restrictions and land use permit requirements. These types of site-specific issues are more appropriately addressed through the existing air permitting process than a blanket rule, and the existing proposal to change the applicability should include detailed technical and economic analyses that are available for public review. |
| 92 | The Port of Portland:  The proposed changes to OAR 340-232-0110 (Loading Gasoline or Volatile Organic Compound Liquids onto Marine Tank Vessels) will place business 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 Portland Air Quality Management Area (AQMA), like other areas of the state, is in attainment with the National Ambient Air Quality Standards. Requiring additional controls for these operations only in the Portland AQMA is not justified from an air quality perspective. In addition, as the export demand increases for volatile organic compound (VOC) liquids (i.e., crude oil, ethanol, or others), businesses will actively seek the most viable locations to set up export terminals that handle those VOC liquids. For facilities located outside of the Portland AQMA, not only would VOC emissions not be reduced through emissions controls, but net VOC emissions could increase due to increased rail and truck emissions (statewide) and pollutant transport into the AQMA. |
| 93 | The Port of Portland:  The definition of a VOC liquid in the draft rules is unclear and could be interpreted to apply to LNG based on LNG’s transport pressure. It does not make sense to apply this rule to LNG because OAR 340-232-0110 is a VOC control rule for the Portland AQMA and LNG is mostly methane, a non-VOC [OAR 340-200-0020(151)]. |
| 94 | The Port of Portland:  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 VOC emission reductions. The destruction of LNG, LPG, and propane vapors creates criteria pollutants, including VOC, carbon monoxide, nitrogen oxides, and particulate matter; as well as air toxics such as formaldehyde and benzene.  The Port recommends that the limits be applied statewide and not just within the Portland AQMA. As an option, we suggest that the requirements for marine terminals loading gasoline and VOC liquids be placed in the ‘Emission Standards for Specific Industries’ [OAR 340 Division 236] section of the regulations and be made to apply on a statewide basis.  If the statewide applicability of the control requirements cannot be reasonably accomplished, we recommend that the loading emission control requirements for gasoline and VOC liquids [OAR 340-232-0110] form the baseline for any typically achievable control technology (TACT) determinations for controls at other similar operations at facilities anywhere in the state. This may be accomplished by adding language to the TACT section of the rules [OAR 340-226-0130] and adding language to internal DEQ TACT review policies.  The Port also recommends that LNG specifically be excluded from coverage by the rule. Methane, the major component of LNG, is not a VOC and should not be regulated under VOC regulations.  The Port further recommends that LNG, LPG, and propane specifically be excluded from coverage by the rule. Although the primary components of LPG and propane are classified as VOCs, destruction of these gasses produces new VOCs, other criteria pollutants, and air toxics that could result in unintended negative air quality outcomes. |
| 19 | Associated Oregon Industries (AOI), PGE, NW Natural, Boise Cascade Wood products (BCWP), The Oregon Forest Industries Council (OFIC), The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products, The Collins Companies, The Port of Portland:  DEQ has added unnecessary complexity to the new source review process without any proportional environmental benefit. These changes could add considerable time, costs, and uncertainty to businesses trying to obtain NSR permits. 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. |
| 32 | Columbia Riverkeeper/NEDC/Neighbors for Clean Air:  Proposed changes to the NSR requirements are insufficient to ensure air quality. Under DEQ’s proposal, sources subject to State NSR in sustainment areas are required to either conduct an Air Quality Analysis (modeling) or demonstrate a Net Air Quality Benefit (offsets). This is different than State NSR sources in attainment areas that only have the option of conducting an Air Quality Analysis. It is unclear whether this program would even work in areas that are above the NAAQS. A requirement of State NSR in sustainment areas (and attainment areas) is that the source demonstrates it will not cause or contribute to a new violation of the NAAQS even if their emissions model below the significant impact level (SIL). OAR 340-224-0245(4), OAR 340-224-0270(1)(d). This requirement does not appear to allow for a de minimis contribution. 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 NSR.  The offset ratios chosen by DEQ are wholly insufficient to achieve the goals of the sustainment program. For sources choosing to demonstrate a Net Air Quality Benefit in a sustainment area, the offset ratio is only 0.1:1 and can drop as low as 0.05:1. The reduction that the sustainment program would offer is minimal. Given these extremely low requirements for offsets, it is entirely unclear whether reductions from the sustainment program would be able to achieve the goal of keeping an area under the NAAQS, let alone reducing emissions in an area violating the NAAQS enough to help the area get below dangerous levels. If DEQ insists on using the sustainment program, the DEQ should at least modify the offset ratios to a more modest level so that the program might actually have a chance of succeeding in stabilizing or reducing the ambient concentration of air pollutants.  It is unclear whether a source subject to Major NSR in reattainment area would need to meet both OAR 340-224-0050 (nonattainment) and OAR 340-224-0055 (reattainment) 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, OAR 340-224-0055. This would be 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 (which would still be required because the reattainment area is still federally designated nonattainment). |
| 97 | Associated Oregon Industry (AOI), The Oregon Forest Industries Council (OFIC), Boise Cascade Wood products (BCWP), NW Natural, PGE, The Northwest Pulp & Paper Association (NWPPA), Weyerhaeuser NR Company, ATI Primary Titanium Operations, ATI Specialty Alloys & Components, EVRAZ, Roseburg Forest Products:  OAR 340-222-0041(3) specifies that if a source is a Federal Major Source and requests a PSEL in excess of the netting basis plus SER but does not trigger PSD, it must demonstrate compliance with NAAQS, PSD increment and AQRVs. This should not be triggered where a source is major for a non-GHG pollutant and the sole increase sought is in the GHG PSEL. While we believe it can be inferred from the rules that these requirements only apply to the pollutant for which the increased PSEL is sought, we suggest that this be clarified. |
| 110 | National Park Service:  340-204-0050, Designation of Prevention of Significant Deterioration Areas, (1)(i), Page 87 â€“ 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, delete and expanded in the 1990 Clean Air Act Amendments. Crater Lake’s last boundary expansion occurred in 1980 under Public Law 96-553.  340-224-0030, New Source Review Procedural Requirements, (5)(a)(A), Page 284 - We recommend that for the first extension, the source also be required to review the original Lowest Achievable Emission Rate (LAER) or Best Available Control Technology (BACT) analysis to determine if lower emission limits are feasible.  340-224-0030, New Source Review Procedural Requirements, (5)(a) and (5)(b), Pages 284-285 - For both a first and a second extension, we recommend the source be required to evaluate LAER or BACT for any pollutants with National Ambient Air Quality Standards (NAAQS) that have been developed since the original application was submitted. The source should also be required to demonstrate compliance with any new NAAQS that have been developed since the original application was submitted.  340-224-0030, New Source Review Procedural Requirements, (5)(a) and (5)(b), Pages 284-285 - We recommend the rules require the Department of Environmental Quality to notify Federal Land Managers about requests for permit extensions. |