



**UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
REGION 10**

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Oregon Department of Environmental Quality
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ODEQ Planning Team:

The EPA Region 10 has reviewed the proposed rule revisions "Revisions to Air Quality Permitting, Heat Smart, and Gasoline Dispensing Facilities" to the Oregon State Implementation Plan (SIP), released for public comment in July 2014, and submits the comments below based on current EPA regulations and national policy. However, the EPA's final decision will be based on our review of the complete submittal following your public process and formal adoption of the revisions, and after consideration of any comments we receive as part of the EPA public process when the EPA proposes action on the submittal.

Comments

Division 224

1. In this round of revisions, the Oregon Department of Environmental Quality (ODEQ) has streamlined the applicability language for New Source Review (NSR) and Best Available Control Technology (BACT) with the intent of clarifying that the same applicability test applies for both federal major NSR and BACT: evaluating the difference between the unit's portion of the Plant Site Emission Limit (PSEL) or actual emissions and the unit's portion of the netting basis. This is described in the major NSR applicability provision (OAR 340-224-0025(2)(a)(B)), and the regulations addressing BACT applicability then refer back to OAR 340-224-0025(2)(a)(B). Our review has identified one BACT-related provision, 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 BACT applies is appropriately tied to the test in OAR 340-224-0025(2)(a)(B). The exemption to applying BACT 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, we believe 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).
2. 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." Our understanding is that ODEQ intends this reference to "emissions" to mean "potential to emit" and the term "potential to emit" (a defined term) should therefore be used in place of the more general term "emissions."

Lane Regional Air Protection Agency (LRAPA) – Delegation of Authority

In this rule revision package, ODEQ has revised the language in the applicability provisions of OAR Divisions 200, 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 (LRAPA). In general, the proposed language states: "The requirements and procedures contained in this division must be used by LRAPA unless LRAPA has adopted or adopts rules which are at least as strict as this division." It thus appears that the comparison involves a division or chapter of LRAPA's rules with the particular ODEQ division, rather than a comparison on a rule by rule basis. In addition, the proposed language does not make clear whether, 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 ODEQ or LRAPA (including, for example, whether LRAPA or ODEQ definitions are used if an OAR division applies in LRAPA's jurisdiction), it is likely that EPA will need clarifying documentation, including an attorney opinion before EPA can take action on such SIP revisions.

We appreciate the time and effort that the ODEQ has devoted to the development of this extensive rulemaking package. If you have any questions concerning these comments, please feel free to contact Justin A. Spenillo via phone or email (206.553.6125, spenillo.justin@epa.gov).

Regards,

A handwritten signature in black ink, appearing to read "Debra M Suzuki".

Debra Suzuki, Manager
Air Planning Unit