Air Quality Rule Changes and Updates

Table of Contents

[Rule Improvements 2](#_Toc366837594)

[Make the rules easier to use by reorganizing 2](#_Toc366837595)

[Provide clarification when needed 3](#_Toc366837596)

[Make housekeeping changes 3](#_Toc366837597)

[Emission Limits and Standards 3](#_Toc366837598)

[Repeal outdated rules 3](#_Toc366837599)

[Update existing limits to address PM2.5 4](#_Toc366837600)

[New Source Review program overhaul 6](#_Toc366837601)

[Redefine major source 7](#_Toc366837602)

[Define two new types of areas to improve or maintain air quality 7](#_Toc366837603)

[Define State New Source Review program (component of overall Minor New Source Review Program) 9](#_Toc366837604)

[Redefine net air quality benefit 11](#_Toc366837605)

[Enhancements to Major and State New Source Review Programs 13](#_Toc366837606)

[Offsets from “priority” sources 13](#_Toc366837607)

[Increased Offset Ratio 13](#_Toc366837608)

[Compliance 13](#_Toc366837609)

[Update continuous monitoring and source sampling manuals 13](#_Toc366837610)

[Excess emissions 14](#_Toc366837611)

[Test methods with all standards 15](#_Toc366837612)

[Permitting Changes 15](#_Toc366837613)

[Revise definition of categorically insignificant activities 15](#_Toc366837614)

[Update ACDP source categories – Table 1 changes 16](#_Toc366837615)

[Improve ACDP timeliness 16](#_Toc366837616)

DEQ is undertaking a large rulemaking in order to accomplish the following:

1. Rule Improvements
	1. Make the rules easier to use by reorganizing
	2. Provide clarification when needed
	3. Correct errors
2. Emission limits and standards
	1. Repeal outdated rules
	2. Update existing limits to address PM2.5
		1. Opacity
		2. Grain loading
3. New Source Review Program overhaul
	1. Redefine major source - use EPA major source definition (EXAMPLES)
	2. Define two new types of areas to improve or maintain air quality:
		1. Sustainment – to help prevent an attainment area from becoming nonattainment (Lakeview)
		2. Reattainment – to help transition an area from nonattainment back to maintenance (attainment) more quickly
	3. Define State New Source Review Program (component of overall Minor New Source Review Program)
	4. Redefine net air quality benefit
		1. Revise offset ratios and provide incentives to obtain offsets from priority sources
		2. Improve modeling procedures for demonstrating net air quality benefit
	5. Enhancements to Major and State New Source Review Programs
		1. Offsets from “priority” sources
		2. Increased offset ratio
4. Compliance
	1. Update continuous monitoring and source test manuals
	2. Excess emissions
	3. Test methods with all standards
5. Permitting Changes
	1. Revise definition of categorically insignificant activities
	2. Update ACDP source categories - Table 1 changes
	3. Improve ACDP timeliness

# Rule Improvements

## Make the rules easier to use by reorganizing

There are many procedural requirements related to Plant Site Emission Limits and Netting Basis contained in division 200, which houses common definitions for air quality regulations. People who are unfamiliar with the rules wouldn’t know to look in the definitions for these requirements. Therefore, DEQ is moving these procedural requirements to where they belong in division 222, Stationary Source Plant Site Emission Limits.

There are also multiple and sometimes different definitions of the same term throughout the divisions that regulate air quality. DEQ is rectifying these definitions and moving them to division 200. Terms that are used only in one division remain defined in that division.

## Provide clarification when needed

DEQ is clarifying the following requirements:

* who has to get an Air Contaminant Discharge Permit
* when a Notice of Construction versus a permit/permit modification is needed
* what changes fit in Type 1, 2, 3, or 4 public notice requirements
* how emergency generators and small fuel burning equipment should be permitted
* how to permit businesses that want to be split into two or more businesses
* how businesses should determine compliance with all standards
* when extensions for NSR/PSD permits can be granted
* when and how long emission reduction credits can be used

## Make housekeeping changes

DEQ is correcting typographical errors, misspellings, inaccurate cross references, etc. in this proposed rulemaking.

# Emission Limits and Standards

## Repeal outdated rules

The following rules are no longer needed because there are more stringent federal rules or that type of business no longer exists in Oregon. If that type of business wanted to build in Oregon, they would be permitted under federal rules, which are more stringent than the state rules being repealed.

* Neutral Sulfite Semi-Chemical (NSSC) Pulp Mills in division 234
* Sulfite Pulp Mills in division 234
* Primary Aluminum Standards in division 236
* Laterite Ore Production of Ferronickel in division 236
* Charcoal Producing Plants in division 240
* Spray Paint in division 242
* Regional Haze rules for Western Backstop SO2 Trading Program in division 228

DEQ is also proposing repeal of the 30-second opacity limit in OAR 340-208-0600. This rule is specific to Clackamas, Columbia, Multnomah, and Washington Counties. This rule applies to “non-fuel-burning-equipment,” essentially equipment that is not a boiler, such as material dryers, storage systems and conveying systems. This rule therefore has limited applicability to equipment other than boilers located in the four-county area. In addition to this rule, DEQ has statewide visible air contaminant standards.

There is an exception for existing fuel burning equipment installed on or before June 1, 1970 utilizing wood wastes, which must comply with the following:

No person may emit any air contaminant for a period or periods aggregating more than three minutes in any one hour which is equal to or greater than 40% opacity.

DEQ is proposing to revise the current statewide visible emission standards to apply on a six-minute average, which will put DEQ’s standards on the same basis as the U.S. EPA’s visible emissions standards.

On the face of it, the visible emissions standard in OAR 340-208-0600 (may not equal 20 percent opacity or greater for a period of or periods totaling more than 30 seconds in any one hour) is more stringent than the current statewide standard. However, this rule has limited applicability as described above. More importantly, emissions standards are only enforceable if there is a defined method for determining compliance with the standard. In the case of the proposed statewide standards, EPA’s Method 9 is the defined method for determining compliance. Using EPA Method 9, visible emissions readings are taken every 15 seconds, and 24 consecutive readings are averaged to determine compliance with the 6-minute standard. However, DEQ does not have a defined method for determining compliance with the 30-second standard in OAR 340-208-0600, and EPA Method 9 does not lend itself to this task because readings are taken every 15 seconds.

The lack of a defined compliance determination method makes the 30-second standard in OAR 340-208-0600 unenforceable as a practical matter. DEQ could devise and propose a compliance method to make this rule enforceable, but DEQ does not believe the level of effort required to do this is justified for a rule that has such limited applicability. DEQ also believes that the statewide standard will be sufficiently protective.

DEQ proposes repeal of this rule because it is not practically enforceable and because the effort required to develop a method to make it enforceable is not justified. Repeal of this rule will have no effect.

## Update existing limits to address PM2.5

There are areas in the state where air quality is close to or over the fine particulate matter ambient air quality standard. Work on the Klamath Falls attainment plan showed that impacts from a single business along with the background concentration could be up to 70 percent of the standard. Similar areas with similar sources are also in danger of violating the ambient air quality standard. This is a big risk for public health and economic development. If a single business “consumes” the majority of the airshed that is available in a clean air area, new businesses are not able to come into the area.

DEQ relies on several types of standards when issuing air quality permits. One standard for particulate matter – dust, dirt, etc. – involves concentration-based (mass per unit of volume) emission limits. A second standard is referred to as a visible emissions standard that limits the maximum visual density – or opacity – of a plume. The rules include different particulate matter and opacity standards for units installed before or after 1970:

* Pre-1970 unit: 0.2 grain/dry standard cubic foot (gr/dscf) and 40 percent opacity
* Post 1970 unit: 0.1 gr/dscf and 20 percent opacity

These statewide particulate matter standards were adopted in the early 1970’s as part of Oregon’s initial State Implementation Plan. At that time, DEQ and EPA used an ambient air quality standard for total particulates that did not differentiate between coarse particulates and fine particulates. With the adoption of the fine particulate ambient air quality standard in 2011, Oregon now has two areas that exceed the standard, Klamath Falls and Oakridge.

These changes in the statewide particulate matter standards are proactive measures to help prevent violations of current standards and potentially even more stringent standards in the future. DEQ adopted similar, more stringent rules when areas like Medford and La Grande exceeded the coarse particulate ambient air quality standard and were designated as nonattainment areas by EPA. Adopting more stringent rules before areas exceed ambient air quality standards and become nonattainment areas, helps avoid the severe nonattainment area restrictions that would be required for businesses that want to build or expand in a nonattainment area.

The current particulate matter standard is 0.1 gr/dscf. However, this value is inconsistent with current EPA policy for significant figures when determining compliance with standards. EPA considers all standards to have two significant figures (0.10 gr/dscf) when comparing measured emissions data to the standards.

When Oregon first adopted the opacity standard, it was based on an aggregate of three minutes in a 60-minute period. However, Oregon never developed a reference method for the 3-minute aggregate limit. Not having a reference method for showing compliance makes a standard unenforceable. In order to show compliance with this standard, people use an ad hoc modified EPA Method 9 based on a 6-minute block average to read opacity.

Current rules include a 20 percent opacity standard that is an aggregate of 30 seconds in a 60-minute period for non-fuel burning equipment. This rule only applies in the four-county area around Portland. In the context of this rule, “non-fuel burning equipment” essentially means equipment that is not a boiler, such as material handling equipment. Therefore, this rule is not just limited to the four-county area, but has limited applicability within the four-county area making this visible emissions standard for the four-county area more stringent than the current statewide standard. However, just like the 3-minute aggregate standard, Oregon never developed a reference method for the 30-second aggregate limit. As stated above, emissions standards are only enforceable if there is a defined method for determining compliance with the standard.

There is also a problem with trying to read opacity from fugitive emission sources. Fugitive particulate matter emissions are not emitted from a stack and typically originate from storage piles, material conveying systems, unpaved roads or other dusty activities. It may be possible in many situations to take opacity readings to determine if the emitting source exceeded the opacity standard and to then require action to abate the emissions. However, there may be situations where opacity readings are difficult to take or the emissions do not exceed the opacity standard but are nevertheless objectionable.

The proposed changes to existing rules would improve and maintain air quality and allow economic development.

The proposed changes would:

* Reduce the particulate matter emissions from pre-1970 units.
* Align the particulate matter standard with EPA policy on enforcement.
* Practically increase enforceability of the opacity standard by aligning it with the reference compliance method.
* Require abatement of any visible fugitive emissions that leave a business's property, regardless of the actual opacity level

The proposed rulemaking changes would affect both the statewide particulate matter and opacity standards for units built before June 1970 by requiring these industries to meet the same standards as post-1970 units.

To align the particulate matter standard with EPA’s policy that standards have 2 significant figures, DEQ is proposing to add a zero to the particulate matter standard, changing it from 0.1 gr/dscf to 0.10 gr/dscf.

Businesses would have until April 1, 2015 to comply with the lower opacity standard and until April 1, 2019 to comply with the lower particulate matter standard.

The proposed rules would to change all opacity standards (both statewide and industry specific) to a 6-minute block average, consistent with other states in the region and EPA opacity standards. DEQ does not expect this to change the overall stringency of the standards.

Repealing the Portland-area four-county 20 percent opacity standard would solve the problem of limited applicability and unenforceability.

Changing the visible emissions limit for fugitive sources from 20 percent opacity to a limit on any visible emissions leaving a source’s property would solve the problem of trying to read opacity from fugitive emission sources. This is a simpler, more stringent and more effective approach to controlling these emissions. EPA Method 22, Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares, is specific for fugitive sources and would be a much better method for determining compliance than what is currently used (EPA Method 9).

# New Source Review program overhaul

DEQ is proposing changes to the New Source Review program to improve air quality in all areas of the state, especially those that are close to or exceed ambient air quality standards. The proposed changes will also clarify permitting requirements, provide more opportunities for businesses to obtain offsets and make it possible to demonstrate a new air quality benefit.

## Redefine major source

DEQ has had a major New Source Review program since the early 1980’s (see supplemental NSR Program Discussion document). This program regulates construction and modification of larger or major sources in the state. Major sources are defined as sources that have the potential to emit at a significant emission rate in Oregon. The federal NSR program differs. For attainment or unclassified areas, the federal rules define major sources at 100 tons per year if they are on a specific list of sources or at 250 tons per year if they are not on that list. In nonattainment areas, the federal rules define major sources at 100 tons per year with lower thresholds, depending on the severity of the nonattainment area. As stated (in part) in the EQC report dated June 5, 1981 for defining major sources as those that emit at or above the significant emission rate:

“The advantages of using significant emission rate levels in nonattainment areas are the following:

1. The “significant emission rate” levels were developed by EPA based on modeling that demonstrated a significant impact caused by such emissions. It makes sense that any emission increase that has a significant impact, whether the increase results from a new source or a modification, should be subject to New Source Review in a nonattainment area. EPA was forced to use different cutoffs for new sources and modification by court interpretations even though these different cutoffs make no technical sense.
2. By providing the same cutoff criteria for new sources and modifications, equity would be provided for both new and existing sources.
3. Sources locating adjacent to nonattainment areas that would potentially impact the nonattainment area are also proposed to be subject to the “significant emission rate” criteria, thereby providing equity for those sources locating inside and those adjacent sources having a significant air quality impact on nonattainment areas.

In this proposed rulemaking, DEQ is changing the definition of “major source” for nonattainment and maintenance areas by aligning the threshold with the federal major source threshold, which is 100 tons per year. Sources with the potential to emit at levels between the Significant Emission Rate and 100 tons per year that were previously considered major sources are now considered minor sources. DEQ is making this change because it is developing a State New Source Review program for these SER to 100 tpy sources that is separate from the Major New Source Review program. The State NSR program is part of DEQ’s minor new source review program, along with the requirements for Notice of Construction and Approval of Plans (OAR 340-210-0205 through 340-210-0250), PSEL increases that are not subject to Major New Source Review (340-222-0041), and the ACDP permitting program (OAR 340, Division 216).

## Define two new types of areas to improve or maintain air quality

Based upon levels of air pollutants, geographic areas are classified by EPA as attainment or nonattainment areas.

* A geographic area that meets or has pollutant levels below the national ambient air quality standards (NAAQS) is called an attainment area.
* An area that exceeds the NAAQS is designated a nonattainment area.

Each nonattainment area is declared for a specific pollutant. Nonattainment areas for different pollutants may overlap each other or share common boundaries.

All states strive to achieve attainment with state and federal air quality standards for a number of reasons. First and foremost, remaining in compliance helps protect public health, a key element of DEQ's mission. In addition, compliance with ambient air quality standards contributes to economic growth. Nonattainment area status can potentially limit production capabilities of existing industries and preclude siting of new industries that provide job opportunities. Attainment of ambient air quality standards also helps avoid a potential loss of federal highway funding that can result from nonattainment status. Lastly, it is costly and time-consuming to develop and implement plans to bring areas back into attainment status.

In addition to areas classified as attainment and nonattainment, some areas are described as “maintenance areas.” Maintenance areas are those geographic areas that were classified as nonattainment, but are now consistently meeting the NAAQS. Maintenance areas have been re-designated by the EPA from "nonattainment" to "attainment with a maintenance plan"; commonly called "maintenance areas." These areas have demonstrated through monitoring and modeling that they have sufficient controls in place to continue to meet the NAAQS. They also have contingency measures in place that would be implemented should the areas start showing exceedances again.

DEQ is proposing to define two new types of areas based upon the ambient air quality of that area:

* Sustainment Areas: If DEQ has data showing that an area is close to or exceeding an ambient air quality standard but is not yet designated nonattainment by EPA, that area can be designated as a sustainment area by EQC. DEQ will work proactively with these areas to prevent them from becoming nonattainment areas. The focus will be on the “priority” sources that are causing the ambient air quality problems in the area. Without this new area designation, businesses in areas that are over the standard would not be allowed to build or expand due to restrictions based on poor air quality.
* Reattainment Areas: For areas that are currently nonattainment areas but have three years of monitoring data showing attainment, EQC can designate these areas as reattainment areas. The process for EPA to redesignate areas from nonattainment to maintenance can take years because a maintenance plan has to be developed and approved. In the meantime, economic growth in the area is limited until the maintenance plan is approved by EPA. Reattainment status provisions will enable economic growth to take place while still protecting the air quality in the area.

## Define State New Source Review program (component of overall Minor New Source Review Program)

DEQ is proposing a State NSR program for all sources. This program will cover the following:

* PSEL increases greater than the SER that do not involve a physical change or change in the method of operation for all sources in the state, both large and small, and
* Construction and modification at sources that emit between the SER and 100 tons per year.

For sources that emit between the SER and 100 tons per year, the State NSR program is very similar to the major New Source Review program under which they were previously regulated. For sources that emit less than the SER, the State NSR program is similar to the existing PSEL program.

The main reason for developing the State NSR program is to be able to address the sources that are causing the majority of the air quality problem in sustainment and nonattainment areas. DEQ has created a provision for the EQC to identify these sources as “priority” sources. Current PM nonattainment areas are the result of smoke from residential wood burning. Under the federal NSR program for major sources, offsets from residential wood burning are only allowed in Klamath Falls, whereas more flexibility is allowed in permitting minor sources. Therefore, a proposal for the State NSR program allows sources in the SER to 100 ton per year range to get offsets from priority sources defined by the EQC. This will directly address the air quality problem in these areas, helping the area meet the ambient air quality standards more quickly. DEQ is also providing incentives, such as a lower offset ratio, for sources that offset their emissions with emissions from priority sources.

The following table shows the differences in permitting requirements for the sources that emit between the SER and 100 tons per year before and after the proposed rule changes:

|  | **NONATTAINMENT** |
| --- | --- |
| Current | Proposed |
| Source Classification | Major | **Minor** |
| Preconstruction Monitoring | n/a | n/a |
| Control Technology | LAER \* | ***BACT***\* |
| NAQB | Offsets* 1.1:1 for ozone
* 1.0:1 for other pollutants \*\*
* Reduce impacts at majority of receptors; and
* Impacts less than SIL at all receptors
 | Offsets* 1.1:1 for ozone
* ***1.0:1 for other pollutants, with provision to reduce the ratio if offsets are obtained from priority sources***
	+ - Impacts less than SIL at all receptors ***or***
		- ***Impacts less than SIL at an average of receptors around DEQ approved ambient monitoring site and***
		- ***Source plus competing sources since area was designated less than 10% of the NAAQS***
 |

\* If a major modification is involved

\*\* Offset ratio varies for certain areas such as Medford-Ashland AQMA for PM10, etc.

|  | **MAINTENANCE** |
| --- | --- |
| Current | Proposed |
| Source Classification | Major | Minor |
| Preconstruction Monitoring | **Yes\*\*\*** | ***No*** |
| Control Technology | BACT \* | BACT \* |
| NAQB | Offsets* 1.1:1 for ozone
* 1.0:1 for other pollutants \*\* and NAQB
	+ - Reduce impacts at majority of receptors; and
		- Impacts less than SIL at all receptors

Or* Growth allowance

Or* Model below maintenance area limits
 | Offsets* 1.1:1 for ozone
* ***1.0:1 for other pollutants, with provision to reduce the ratio if offsets are obtained from priority sources***
	+ - Impacts less than SIL at all receptors ***or***
		- ***Impacts less than SIL at an average of receptors around DEQ approved ambient monitoring site and***
		- ***Source plus competing sources since area was designated less than 10% of the NAAQS***

Or* Growth allowance

Or* Model below maintenance area limits
 |

\*\*\* If impacts are greater than the Significant Monitoring Concentration (current exemptions will still apply, as well)

## Redefine net air quality benefit

The current definition of net air quality benefit for sources located within nonattainment areas for pollutants other ozone is:

“Offsets obtained result in a reduction in concentration at a majority of the modeled receptors and the emission increases from the proposed source or modification will result in less than a significant impact level increase at all modeled receptors”

This two part test was adopted in May, 2001 and is unworkable. Since adoption, this definition has not been an issue for sources that triggered NSR/PSD because all of the proposed sources were located in attainment or unclassified areas and did not significantly impact air quality in a designated nonattainment or maintenance area. Therefore, these sources did not have to meet the requirements of net air quality benefit.

In 2009, a source located in a nonattainment area wanted to expand but couldn’t meet the second part of the net air quality benefit test because the offsets were from a different part of the nonattainment area. Legislation was passed to redefine net air quality benefit for small scale local energy projects as a result. Recently this rule was applied to a new business in a nonattainment area that was essentially co-located with the existing business that provided the offsets. Because the businesses were co-located, they were able to show that modeled impacts resulted in less than a significant impact level increase at all modeled receptors. If the businesses had not been co-located, this requirement would have been impossible to meet because of meteorological conditions and different topography.

[put a diagram here showing impacts from different sources in the same direction]

DEQ is proposing changes to the definition of net air quality benefit for non-ozone pollutants because the current definition is unworkable except for co-located businesses that are increasing and offsetting emissions. EPA does not specify how businesses provide a net air quality benefit in the federal rules but does require offsets. Other states define net air quality benefit as offsets alone. DEQ will continue to be more stringent than EPA’s federal program and require offsets but the proposed modeling analysis will be different and equally protective as the existing modeling requirements.

Computer modeling will be required to demonstrate that the impacts from emissions increases are either:

* + - less than the Class II significant impact level at all receptors within the designated area; or
		- less than the Class II SIL at an average of receptors within an area representing a neighborhood scale, a reasonably homogeneous urban area with dimensions of a few kilometers that represent air quality where people commonly live and work in a representative neighborhood, centered on the DEQ approved ambient monitoring site; and
		- the impacts of the emission increases above the source’s netting basis, plus the impacts of emission increases or decreases since the date of the current area designation of all other sources within the designated area or significantly impacting the designated area are less than 10% of the NAAQS at all receptors within the designated area

This demonstration of net air quality benefit shows that emissions increase from the new or modified source will not significantly impact the area. It is not reliant upon co-located businesses that are increasing and offsetting emissions.

In a recent lawsuit, the Sierra Club argued that EPA lacks authority to establish Significant Impact Levels (SILs) because a proposed source or modification in an area that is close to violating the NAAQS or an increment could violate the NAAQS or increment even if its emissions would have an ambient impact below the SIL. The U.S. Court of Appeals for the D.C. Circuit vacated and remanded to EPA certain aspects of a 2010 agency rule regarding SILs and the Significant Monitoring Concentration (SMC) for fine particulate matter (PM2.5). Therefore, DEQ has added the requirement that the new or modified source must not cause or contribute to a new violation of an ambient air quality standard even if the single source impact is less than the SIL. This safeguard ensures that a new or modified source will not significantly impact the area.

## Enhancements to Major and State New Source Review Programs

Offsets from “priority” sources

As stated above, DEQ is proposing special offset requirements for minor sources in sustainment, nonattainment, reattainment and maintenance areas to address “priority” source emissions. Currently there are three areas in the state that exceed the ambient air quality standard for PM2.5 at night in the winter because of residential wood burning emissions. When permitting new or expanding businesses in these areas, the requirement to offset emissions increases does not allow use of residential wood burning emissions except in Klamath Falls. DEQ wants to encourage new or expanding businesses to obtain part of their offsets from priority sources by allowing a lower offset ratio. Normally the offset ratio is 1.0:1, meaning businesses have to offset their emission increases ton for ton from another business in the area that has reduced emissions. If a business uses offsets from priority sources, the offset ratio for minor sources may be reduced to as low as 0.5:1, meaning the business would only have to offset half of their increase in emissions. This would directly address the cause of poor air quality in the area while allowing for economic growth at the same time.

Emission reductions from priority sources will be determined in accordance with division 268 Emission Reduction Credits. The reductions would be determined on a case-by-case basis as they are done now. If there is good information for a priority source(s), as in the Klamath Falls residential wood burning instance, then procedures would be included in the rules for other areas, division 240.

Increased Offset Ratio

DEQ is also providing the opportunity to use priority source offsets for major sources in nonattainment and reattainment areas only. In these areas, DEQ has increased the required offset ratio for major sources to 1.2:1 instead of the current 1.0:1. If major sources offset some of their emissions increase with priority source emissions, then the ratio may be reduced to no less than 1.0:1. Since the minimum requirement of 1.0:1 offsets is still the same as the federal NSR program, offsetting with priority source emissions should be approvable by EPA.

# Compliance

## Update continuous monitoring and source sampling manuals

DEQ’s Continuous Monitoring Manual and Source Sampling Manual were adopted by the EQC in 1992. Proposed revisions to the manuals include:

* Updated references to EPA methods;
* Reorganized to make them easier to use;
* More detail to make requirements clearer; and
* Clarify requirements for source test plans and reports.

## Excess emissions

Under the excess emission rules, sources are required to report excess emissions to DEQ. “Large” sources are required to report all excess emissions immediately (within one hour of the event) while “small” sources must notify DEQ immediately only of excess emissions events that could endanger public health. A “large” source is defined as any Title V source, any source whose emissions are equal to or exceed 100 tons per year of any regulated air pollutant, or which is subject to a National Emissions Standard for Hazardous Air Pollutants (NESHAP). A "small” source means any other stationary source with a general, simple or standard ACDP.

DEQ is proposing changes to the sources that are required to report excess emissions. Since the initial adoption of the excess emission rules, EPA has promulgated NESHAPs for many smaller sources, such as gas stations, hospital ethylene oxide sterilizers, and dry cleaners. The general provisions for NESHAP sources have excess emission reporting and some individual NESHAPs have their own excess emission reporting so these sources do not need to be included with large sources that are required to report immediately. DEQ inadvertently omitted sources that are on basic permits in the definition of “small” sources so they will be added and required to report excess emissions.

DEQ is proposing to limit the sources that can use emergency as an affirmative defense to Title V permitted sources only because of recent law suits.

DEQ proposes to add more criteria in determining whether to take enforcement action for excess emissions:

* whether any federal New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants apply and whether the excess emission event caused a violation of the federal standard; and
* whether the excess emissions event was due to an emergency

Source specific standard such as NSPS or NESHAP have taken into consideration the achievable emission of the affected facility while using best demonstrated technology. Adding this criterion in determining whether to take enforcement action for excess emissions recognizes that there may be a violation of the general statewide standard but the source is still complying with the source specific technology based standard. Since DEQ is proposing to limit sources that can use emergency as an affirmative defense to Title V permitted sources, emergencies need to be evaluated for all other sources.

## Test methods with all standards

Some standards do not include test methods so compliance demonstrations are not clear. DEQ is adding test methods to all standards along with a testing and monitoring section to rules that do not already have them.

# Permitting Changes

## Revise definition of categorically insignificant activities

DEQ is proposing revisions to portions of the definition of categorically insignificant activities in division 200:

* Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hour each;
* Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hour each; and
* Emergency generators and pumps rated individually at less than 500 horsepower, used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency as determined by DEQ

DEQ has encountered businesses that have numerous fuel burning equipment and/or emergency generators at a single facility, whose aggregate emissions total much more than the levels in the definition of aggregate insignificant emissions. In addition, there are requirements under 40 CFR Part 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines for emergency generators. Therefore, DEQ is proposing to add restrictions to these three activities of categorically insignificant activities.

If the emissions from the activity, in aggregate, are greater than the de minimis levels for any pollutant, they will not be considered categorically insignificant activities. Emissions from emergency generators are 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. The emissions from the categorically insignificant activities will be added to the PSEL and the netting basis if the aggregate emissions are greater than de minimis levels. If the revised PSEL that includes emissions from previously considered categorically insignificant activities is greater than the netting basis by greater than or equal to an SER as a result of this revision, the requirements of OAR 340-222-0041(4) do not apply. If the revised PSEL is greater than or equal to the SER above the netting basis, any future increase in the PSEL for any reason would be subject to OAR 340-222-0041(4). This applies only to categorically insignificant activities that existed at a facility before April 1, 2014. Emissions from categorically insignificant activities installed after April 1, 2014 are not grandfathered from triggering the requirements of 340-222-0041(4).

## Update ACDP source categories – Table 1 changes

DEQ has added a lead-in to Table 1 in division 216 which lists the sources that are required to obtain air permits. This should make it clear to business that more than one source category in Table 1 may apply to a facility and they are not necessarily listed in alphabetic order. If more than one source category in Table 1 applies to a source, the highest level of permit specified in Part A, B, or C is required. There have been problems with businesses thinking that only one category applies. Numerous changes have been made to clarify which sources are required to get air permits.

DEQ is proposing to handle emergency generators differently than before. 40 CFR Part 63 Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines has testing requirements for emergency generators that were previously considered categorically insignificant activities. Therefore, DEQ is adding these sources as a new category that is required to get air permits and modifying existing category 27:

27.      Stationary reciprocating internal combustion engines used forelectrical power generation or to power pumps or compressors, with a site rating of 500 horsepower or more, excluding 2-stroke lean burn engines

28.      Stationary emergency generators and firewater pumps that are each rated at 500 horsepower or more

Changes to Category 27 are proposed that will require permits for stationary reciprocating internal combustion engines used for electrical power generation or to power pumps or compressors with a site rating of 500 horsepower or more. There are no requirements for 2-stroke lean burn engines so they are exempt from permitting. A general permit will be developed for Category 28, Stationary emergency generators and firewater pumps that are each rated at 500 horsepower or more.

## Improve ACDP timeliness

DEQ is proposing a change to when Air Contaminant Discharge Permit holders are required to submit renewal or modification applications. Currently these businesses are required to submit applications 60 days before a permit is needed or expires. Some ACDPs are quite complicated and changes to the permit cannot be completed in 60 days. Therefore, DEQ is requiring these applications to be submitted 180 days before a permit is needed or expires, rather than 60 days. This change will help DEQ issue more timely permits.