DIVISION 224

**NEW SOURCE REVIEW**

**340-224-0010**

**Applicability and General Prohibitions**

(1) OAR 340-224-0010 through 340-224-0190 are the Major New Source Review requirements for the review and approval of:

(a) new federal major sources;

(b) major modifications at existing federal major sources; or

(c) existing sources that will become federal major sources as a result of a major modification.

(2) OAR 340-224-0200 through 340-224-0300 are the State New Source Review requirements for the review and approval of sources not otherwise subject to Major New Source Review which include the following:

(a) new sources that have emissions above significant emission rate; (b) modifications or changes in the method of operation at existing sources that would result in a PSEL equal to or greater than the netting basis by the significant emission rate; or

(c) PSEL increases above the SER that are not the result of a major modification.

(3) Within designated sustainment, nonattainment, reattainment and maintenance areas, the requirements for these areas apply only to the regulated pollutant(s) for which the area is designated.

(4) Within attainment and unclassifiable areas, the requirements for these areas apply to all regulated pollutant(s) except for any pollutant for which the area is designated nonattainment and reattainment..

(5) Owners and operators of all sources are subject to other DEQ rules, including but not limited to Highest and Best Practicable Treatment and Control (OAR 340-226-0100 through 340-226-0140), Notice of Construction and Approval of Plans (340-210-0205 through 340-210-0250), ACDPs (OAR 340 division 216), Emission Standards for Hazardous Air Contaminants (OAR 340 division 244), and Standards of Performance for New Stationary Sources (OAR 340 division 238).

(6) No owner or operator of a source that meets the applicability criteria of sections (1) or (2) of this rule may begin construction without having received an air contaminant discharge permit (ACDP) from DEQ and having satisfied the requirements of this division.

(7) Beginning May 1, 2011, the pollutant GHG is subject to regulation if:

(a) The source is a new federal major source for a regulated pollutant that is not GHG, and also emits, will emit or will have the potential to emit 75,000 tons per year CO2e or more; or

(b) The source is or becomes a federal major source subject to OAR 340-224-0070 as a result of a major modification for a regulated pollutant that is not GHG, and will have an emissions increase of 75,000 tons per year CO2e or more over the netting basis.

(8) Beginning July 1, 2011, in addition to the provisions in section (7) of this rule, the pollutant GHGs shall also be subject to regulation at:

(a) A new federal major source; or

(b) A source that is or becomes a federal major source when such source undertakes a major modification.

(9) Subject to the requirements in this division, the Lane Regional Air Protection Agency is designated by the EQC as the permitting agency to implement the Oregon Major New Source Review and State New Source Review program within its area of jurisdiction. The Regional Agency's program is subject to DEQ oversight. The requirements and procedures contained in this division pertaining to the Major New Source Review and State New Source Review program shall be used by the Regional Agency to implement its permitting program until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0220; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1900; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

**340-224-0020**

**Definitions**

The definitions in OAR 340-200-0020, 340-204-0010 and this rule apply to this division. If the same term is defined in this rule and 340-200-0020 or 340-204-0010, the definition in this rule applies to this division.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the

Environmental Quality Commission under OAR 340-200-0040.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 14-1999, f. & cert. ef. 10-14-99

**Major New Source Review**

**340-224-0025**

**Major Modification**

"Major Modification" means any physical change(s) or change(s) in the method of operation of a source that results in satisfying the requirements of both sections (1) and (2) or of section (3) for any pollutant subject to Major New Source Review as specified in the definition of regulated air pollutant in division 200. Major modifications for ozone precursors or PM2.5 precursors also constitute major modifications for ozone and PM2.5, respectively.

(1) Except as provided in section (4), a PSEL that exceeds the netting basis by an amount that is equal to or greater than the significant emission rate; and

(2) The accumulation of emission increases due to physical changes and changes in the method of operation is equal to or greater than the significant emission rate.

(a) Calculations of emission increases in section (2) must account for all accumulated increases in actual emissions due to physical changes and changes in the method of operation occurring at the source since the netting basis was last established for that pollutant. Emissions from categorically insignificant activities, aggregate insignificant emissions, and fugitive emissions must be included in the calculations.

(b) Emission increases due solely to increased use of equipment or facilities that existed or were permitted or approved to construct in accordance with OAR 340 division 210 during the applicable baseline period are not included, except if the increased use is to support a physical change or change in the method of operation.

(3) Any change at a source, including production increases, that would result in a Plant Site Emission Limit increase of 1 ton or more for any regulated pollutant for which the source is a federal major source, if the source obtained permits to construct and operate after the applicable baseline period but has not undergone New Source Review.

(a) Section (3) does not apply to PM2.5 and greenhouse gases.

(b) Changes to the PSEL solely due to the availability of better emissions information are exempt from being considered an increase.

(4) If a portion of the netting basis or PSEL or both was set based on PTE because the source had not begun normal operations but was permitted or approved to construct and operate, that portion of the netting basis or PSEL or both must be excluded from the tests in sections (1) and (2) until the netting basis is reset as specified in OAR 340-222-0051.

(5) The following are not considered major modifications:

(a) Except as provided in section (3), proposed increases in hours of operation or production rates that would cause emission increases above the levels allowed in a permit and would not involve a physical change or change in method of operation in the source;

(b) Routine maintenance, repair, and replacement of components;

(c) Temporary equipment installed for maintenance of the permanent equipment if the temporary equipment is in place for less than six months and operated within the permanent equipment's existing PSEL;

(d) Use of alternate fuel or raw materials, that were available and the source was capable of accommodating in the baseline period.

[ED. NOTE: This rule was moved verbatim from OAR 340-200-0020(71) and amended in redline/strikeout.]

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020, 468A.025, 468A.035, 468A.055 & 468A.070
Stats. Implemented: ORS 468A.025 & 468A.035

**340-224-0030**

**Major New Source Review Procedural Requirements**

(1) Information Required. The owner or operator of a proposed federal major source or major modification must submit all information DEQ needs to perform any analysis or make any determination required under this division and OAR 340 division 225. The information must be in writing on forms supplied by DEQ and include the information for a Standard ACDP as detailed in OAR 340 division 216.

(2) Application Processing:

(a) Within 30 days after receiving an application to construct, or any addition to such application, DEQ will advise the applicant of any deficiency in the application or in the information submitted. For purposes of this section, the date the Department received a complete application is the date on which the Department received all required information;

(b) Notwithstanding the requirements of OAR 340-216-0040 or 340-218-0040, concerning permit application requirements, DEQ will make a final determination on the application within twelve months after receiving a complete application. This involves performing the following actions in a timely manner in accordance with the public participation procedures of Category IV in OAR 340 division 209:

(A) Making the permit application available at a public meeting;

(B) Making a preliminary determination whether construction should be approved, approved with conditions, or disapproved;

(C) Making the proposed permit available for comment and holding a public hearing. .

(3) Approval to construct becomes invalid if construction is not commenced within 18 months after DEQ issues such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time.

(4) If after construction commences, the owner or operator intends to modify the project, the owner or operator must temporarily halt construction and obtain approval for the modification in accordance with permit application requirements in division 216 and this division.

(5) Permit Extensions: DEQ may extend the 18-month period for good cause provided there have not been any changes to the project which would negatively affect air quality. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date;

(a) For the first extension, the owner or operator must provide a LAER or BACT analysis, as applicable, if any new control technologies become commercially available since the original LAER or BACT analysis for the original pollutants subject to major New Source Review.

(b) For the second extension the owner or operator must provide the following for the original pollutants subject to major New Source Review:

(A) A review of the original LAER or BACT analysis for potentially lower limits and a review of any new control technologies that may have become commercially available since the original LAER or BACT analysis; and

(B) A review of the air quality analysis to address any of the following:

(i) all ambient standards or increments that were subject to review under the original application;

(ii) any new competing sources or changes in ambient air quality, including any redesignation of the area impacted, since the original application was submitted;

(iii) any new ambient standards or increments for the regulated pollutants that were subject to review under the original application; and

(iv) any changes to EPA approved models since the original application was submitted.

(c) DEQ will not grant a third extension and the original major New Source Review/Prevention of Significant Deterioration permit is automatically terminated no later than five years after it was issued.

(A) If the owner or operator wants approval to construct beyond the second extension, the owner or operator must submit a new major New Source Review/Prevention of Significant Deterioration permit application. (B) The owner or operator may continue to use the original emission reduction credits and any additional emission reduction credits that may become necessary for the project provided:

(i) the 10 year emission reduction credit banking period has not expired; and

(ii) changes to the project do not result in a change to the two digit Standard Industrial Classification (SIC) code associated with the project; and

(iii) the emission reduction credits will continue to satisfy the offset and net air quality benefit criteria.

(d) To request a construction extension as provided in subsection (a) or (b), the owner or operator must submit an application to modify the permit at least 30 days prior to the end of the current construction approval period.

(A) DEQ will make a proposed permit modification available in accordance with the following public participation procedures:

(i) Category II for an extension that does not require an air quality analysis; or

(ii) Category III for an extension that requires an air quality analysis.

(B) If DEQ determines that the project will continue to meet New Source Review requirements, the approval to construct will be extended for 18 months from the date the permit modification is issued.

(C) The expiration date of an New Source Review permit is not affected by construction extensions.  If the owner or operator wants approval to construct beyond the expiration date of the New Source Review permit, the owner or operator must submit a new major New Source Review permit application.

(6) Approval to construct does not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state or federal law;

(7) Approval to construct a source under an ACDP issued under division 216 authorizes construction and operation of the source, except as prohibited in section (7) of this rule, until the later of:

(a) One year from the date of initial startup of operation of the federal major source or major modification; or

(b) If a timely and complete application for an Oregon Title V Operating Permit is submitted, the date of final action by DEQ on the Oregon Title V Operating Permit application.

(8) Where an existing Oregon Title V Operating Permit would prohibit construction or change in operation, the owner or operator must obtain a permit revision before commencing construction or operation.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 18-1984, f. & ef. 10-16-84; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0230; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1910; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 1-2004, f.& cert. ef. 4-14-04

**340-224-0034**

**Exemptions**

Temporary emission sources that would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification must comply with OAR 340-224-0050(1), 340-224-0060(1) or 340-224-0070(1), whichever is applicable, but are exempt from the remaining requirements of 340-224-0050, 340-224-0060 and 340-224-0070 provided that the source or modification would not impact a Class I area or an area with a known violation of a National Ambient Air Quality Standard (NAAQS) or an applicable PSD increment as defined in OAR 340 division 202.

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047.

[ED. NOTE: This rule renumbered from OAR 340-224-0080.]

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0250; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1950; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 1-2004, f.& cert. ef. 4-14-04

**340-224-0038**

**Fugitive and Secondary Emissions**

Fugitive emissions are included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions are not included in calculations of potential emissions that are made to determine if a proposed source is a federal major or if the modification is major. Once a source is identified as being a federal major source or a modification is identified as being major, secondary emissions also become subject to the air quality impact analysis requirements in this division and OAR 340 division 225.

[ED. NOTE: This rule was moved verbatim from OAR 340-224-0100 and amended in redline/strikeout.]

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

[ED. NOTE: This rule renumbered from OAR 340-224-0100.]

Stat. Auth.: ORS 468 & ORS 468A
Stats. Implemented: ORS 468 & ORS 468
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0270; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1990; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

**340-224-0040**

**Review of New Sources and Modifications for Compliance With Regulations**

The owner or operator of a proposed federal major source or major modification at a federal major source must demonstrate the ability of the proposed source or modification to comply with all applicable air quality requirements of DEQ.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93; Renumbered from 340-020-0235; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1920; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

**340-224-0045**

**Requirements for Sources in Sustainment Areas**

Within a designated sustainment area, proposed federal major sources and major modifications at federal major sources of a sustainment pollutant, including VOC or NOx in a designated ozone area and NOx or SO2 in a designated PM2.5 area, must meet the requirements listed below:

(1) The owner or operator must comply with the Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas in OAR 340-224-0070; and

(2) The owner or operator must meet the Net Air Quality Benefit requirements of OAR 340-224-0520 for ozone areas or 340-224-0540(4) for non-ozone areas, whichever is applicable, unless the source can demonstrate that the impacts are less than the significant impact levels at all receptors within the designated area.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

**340-224-0050**

**Requirements for Sources in Nonattainment Areas**

Within a designated nonattainment area, proposed federal major sources and major modifications at federal major sources of a nonattainment pollutant, including VOC or NOx in a designated ozone nonattainment area or SO2 or NOx in a designated PM2.5 nonattainment area, must meet the requirements listed below:

(1) Lowest Achievable Emission Rate (LAER). The owner or operator must apply LAER for each nonattainment pollutant or precursor(s) emitted at or above the significant emission rate (SER). LAER applies separately to the nonattainment pollutant or precursor(s) if emitted at or above a SER over the netting basis.

(a) For a major modification, the requirement for LAER applies to the following:

(A) Each emissions unit that emits the nonattainment pollutant or precursor(s) and is not included in the most recent netting basis established for that pollutant; and

(B) Each emissions unit that emits the nonattainment pollutant or precursor (s) and is included in the most recent netting basis but has been modified and the modification resulted in an increase in actual emissions above the portion of the most recent netting basis attributable to the emissions unit for the nonattainment pollutant or precursor(s).

(b) For phased construction projects, the LAER determination must be reviewed at the latest reasonable time before commencing construction of each independent phase.

(c) When determining LAER for a change that was made at a source before the current Major NSR application, DEQ will consider technical feasibility of retrofitting required controls provided:

(A) The change was made in compliance with Major NSR requirements in effect when the change was made, and

(B) No limit will be relaxed that was previously relied on to avoid Major NSR.

(d) Modifications to individual emissions units that increase the potential to emit less than 10 percent of the SER are exempt from this section unless:

(A) They are not constructed yet;

(B) They are part of a discrete, identifiable, larger project that was constructed within the previous 5 years and is equal to or greater than 10 percent of the SER; or

(C) They were constructed without, or in violation of, DEQ's approval.

(2) Air Quality Protection:

(a) Air Quality Analysis: The owner or operator of a federal major source must meet the AQRV requirements in OAR 340-225-0070.

 (b) Net Air Quality Benefit: The owner or operator must meet the requirements of OAR 340-224-0520 for ozone areas or 340-224-0540(2) and (5) for non-ozone areas, whichever is applicable.

(3) Sources Impacting Other Designated Areas: The owner or operator of any source that significantly impacts air quality in a designated area other than the one the source is locating in must meet the additional requirements of net air quality benefit in OAR 340-224-0520 or 340-224-0550, whichever is applicable.

(4) Additional Requirements: (a) The owner or operator of a federal major source subject to this rule must evaluate alternative sites, sizes, production processes, and environmental control techniques for the proposed source or modification and demonstrate that benefits of the proposed source or modification will significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

(b) The owner or operator of a federal major source subject to this rule must demonstrate that all federal major sources owned or operated by such person (or by an entity controlling, controlled by, or under common control with such person) in the state are in compliance, or are on a schedule for compliance, with all applicable emission limitations and standards under the Act.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0240; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef.1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1930; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

**340-224-0055**

**Requirements for Sources in Reattainment Areas**

Within a designated reattainment area, proposed federal major sources and major modifications at federal major sources of a reattainment pollutant, including VOC or NOx in a designated ozone area and NOx or SO2 in a designated PM2.5 area, must meet the requirements listed below:

(1) the requirements for nonattainment areas in OAR 340-224-0050;

(2) the requirements for additional impacts analysis in OAR 340-225-0050(3); and

(3) the owner or operator 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 significant impact level, in accordance with OAR 340-202-0050(2).

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

**340-224-0060**

**Requirements for Sources in Maintenance Areas**

Within a designated maintenance area, proposed federal major sources and major modifications at federal major sources of a maintenance pollutant, including VOC or NOx in a designated ozone maintenance area or SO2 or NOx in a designated PM2.5 maintenance area, must meet the requirements listed below:

(1) The owner or operator must comply with the Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas in OAR 340-224-0070; and

(2) Net Air Quality Benefit: The owner or operator must demonstrate Net Air Quality Benefit by satisfying one of the requirements listed below:

(a) obtain offsets in accordance with OAR 340-224-0520 for ozone areas or 340-224-0540(3) for non-ozone areas, whichever is applicable;

(A) Sources within or affecting the Medford Ozone Maintenance Area are exempt from the requirement for NOx offsets relating to ozone formation.

(B) Sources within or affecting the Salem Ozone Maintenance Area are exempt from the requirement for VOC and NOx offsets relating to ozone formation;

(b) comply with the limits in OAR 340-202-0225 by performing the analysis specified in OAR 340-225-0045;

 (c) obtain an allocation from a growth allowance. The requirements of this section may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by DEQ from a growth allowance, if available, in accordance with the applicable maintenance plan in the SIP adopted by the EQC and approved by EPA. An allocation from a growth allowance used to meet the requirements of this section is not subject to subsection (2)(a). Procedures for allocating the growth allowances for the Oregon portion of the Portland-Vancouver Interstate Maintenance Area for Ozone and the Portland Maintenance Area for Carbon Monoxide are contained in 340-242-0430 and 340-242-0440.

 (3) Sources Impacting Other Designated Areas: The owner or operator of any source that significantly impacts air quality in a designated area other than the one the source is locating in must meet the additional requirements of net air quality benefit in OAR 340-224-0520 or 340-224-0550, whichever is applicable.

(4) Contingency Plan Requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this section applies in addition to other requirements of this rule until the EQC adopts a revised maintenance plan and EPA approves it as a SIP revision.

(a) The requirement for BACT in section (1) of this rule is replaced by the requirement for LAER contained in OAR 340-224-0050(1).

(b) .

The alternatives provided in subsections (2)(b) and (2)(c) no longer apply.

(5) Medford-Ashland AQMA: Proposed federal major sources and major modifications that would emit PM10 within the Medford-Ashland AQMA must meet the LAER emission control technology requirements in OAR 340-224-0050.

(6) Pending Redesignation Requests. This rule does not apply to a proposed federal major source or major modification for which a complete application to construct was submitted to DEQ before the maintenance area was redesignated from nonattainment to attainment by EPA. Such a source is subject to OAR 340-224-0055 (Requirements for Sources in Reattainment Areas).

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 15-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1935; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 9-2005, f. & cert. ef. 9-9-05; DEQ 3-2007, f. & cert. ef. 4-12-07; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

**340-224-0070**

**Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas**

Within a designated attainment or unclassified area, proposed federal major sources and major modifications at federal major sources, must meet the requirements listed below.

(1) (a) Preconstruction Air Quality Monitoring:

(A) The owner or operator of a source must submit with the application an analysis of ambient air quality in the area impacted by the proposed project. This analysis, which is subject to DEQ's approval, must be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification.

(i) The analysis must include continuous air quality monitoring data for any pollutant that may be emitted by the source or modification, except for volatile organic compounds.

(ii) The data must relate to the year preceding receipt of the complete application and must have been gathered over the same time period.

(iii) DEQ may allow the owner or operator to demonstrate that data gathered over some other time period would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant PSD increment.

(iv) When PM10/PM2.5 preconstruction monitoring is required by this section, at least four months of data must be collected, including the season(s) DEQ judges to have the highest PM10/PM2.5 levels. PM10/PM2.5 must be measured in accordance with 40 CFR Part 50, Appendices J and L. In some cases, a full year of data will be required.

(v) Pursuant to the requirements of these rules, the owner or operator must submit for DEQ's approval, a preconstruction air quality monitoring plan. This plan must be submitted in writing at least 60 days prior to the planned beginning of monitoring and approved in writing by DEQ before monitoring begins.

(vi) Required air quality monitoring must be conducted in accordance with 40 CFR 58 Appendix A, "Quality Assurance Requirements for SLAMS, SPMs and PSD Air Monitoring" and with other methods on file with DEQ.

(B) DEQ may exempt the owner or operator of a proposed source or modification from preconstruction monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that modeled competing source concentration plus the general background concentration of the pollutant within the Source Impact Area, as defined in division 225, are less than the following significant monitoring concentrations:

(i) Carbon monoxide; 575 ug/m3, 8 hour average;

(ii) Nitrogen dioxide; 14 ug/m3, annual average;

(iii) PM10; 10 ug/m3, 24 hour average;

(iv) PM2.5; 4 ug/m3, 24-hour average;

(v) Sulfur dioxide; 13 ug/m3, 24 hour average;

(vi) Ozone; Any net increase of 100 tons/year or more of VOCs from a source or modification subject to PSD requires an ambient impact analysis, including the gathering of ambient air quality data. However, requirement for ambient air monitoring may be exempted if existing representative monitoring data shows maximum ozone concentrations are less than 50% of the ozone NAAQS based on a full season of monitoring;

(vii) Lead; 0.1 ug/m3, 24 hour average;

(viii) Fluorides; 0.25 ug/m3, 24 hour average;

(ix) Total reduced sulfur; 10 ug/m3, 1 hour average;

(x) Hydrogen sulfide; 0.04 ug/m3, 1 hour average;

(xi) Reduced sulfur compounds; 10 ug/m3, 1 hour average.

(C) In addition to the exemption provided in paragraph (B), the requirement for preconstruction monitoring in paragraph (A) may be satisfied by the submittal of representative or conservative general background concentration data.

(b) Post-Construction Air Quality Monitoring: After construction has been completed, DEQ may require ambient air quality monitoring as a permit condition to establish the effect of emissions, other than volatile organic compounds, on the air quality of any area that such emissions could affect.

(2) Best Available Control Technology (BACT). The owner or operator must apply BACT for each pollutant or precursor(s) emitted at or above a significant emission rate (SER). BACT applies separately to the pollutant or precursor(s) if emitted at or above a SER over the netting basis. In the Medford-Ashland AQMA, the owner or operator of any proposed new federal major PM10 source, or proposed major modification of a federal major PM10 source must comply with the LAER emission control technology requirement in 340-224-0050(1), and is exempt from the BACT provision of this section.

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

(A) Each emissions unit that emits the pollutant or precursor(s) and is not included in the most recent netting basis established for that pollutant; and

(B) Each emissions unit that emits the pollutant or precursor (s) and is included in the most recent netting basis but has been modified and the modification resulted in an increase in actual emissions above the portion of the most recent netting basis attributable to the emissions unit for the attainment pollutant or precursor(s).

(b) For phased construction projects, the BACT determination must be reviewed at the latest reasonable time before commencement of construction of each independent phase.

(c) When determining BACT for a change that was made at a source before the current major NSR application, any additional cost of retrofitting required controls may be considered provided:

(A) The change was made in compliance with major NSR requirements in effect at the time the change was made, and

(B) No limit is being relaxed that was previously relied on to avoid major NSR.

(d) Modifications to individual emissions units that increase the potential to emit less than 10 percent of the significant emission rate are exempt from this section unless:

(A) They are not constructed yet;

(B) They are part of a discrete, identifiable larger project that was constructed within the previous 5 years and that is equal to or greater than 10 percent of the significant emission rate; or

(C) They were constructed without, or in violation of, DEQ's approval.

(3) Air Quality Protection:

Air Quality Analysis: The owner or operator of a source must provide an analysis of the air quality impacts of each pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification in accordance with OAR 340-225-0050(1) through (3), 340-225-0060, and 340-225-0070.

 (a) For increases of direct PM2.5 or PM2.5 precursors equal to or greater than the significant emission rates, the owner or operator must provide an analysis of PM2.5 air quality impacts based on all increases of direct PM2.5 and PM2.5 precursors.

(b) The owner or operator 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 significant impact level, in accordance with OAR 340-202-0050(2).

(4) Sources Impacting Other Designated Areas: The owner or operator of any source that significantly impacts air quality in a designated area other than the one the source is locating in must meet the additional requirements of net air quality benefit in OAR 340-224-0520 or 340-224-0550, whichever is applicable.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A.025
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 27-1992, f. & cert. ef. 11-12-92, Section (8) Renumbered from 340-020-0241; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0245; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 26-1996, f. & cert. ef. 11-26-96; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1940; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 11-2002, f. & cert. ef. 10-8-02; DEQ 1-2004, f. & cert. ef. 4-14-04; DEQ 1-2005, f. & cert. ef. 1-4-05; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction, 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

**State New Source Review**

**340-224-0200**

**Applicability**

OAR 340-224-0200 through 340-224-0300 contain requirements for State New Source Review. These rules also apply if referred here by OAR 340-222-0041(4)(b)(ii).

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

**340-224-0210**

**Procedural Requirements**

(1) Information Required. The owner or operator subject to OAR 340-224-0200 must submit all information DEQ needs to perform any analysis or make any determination required under this division and OAR 340 division 225. The information must be in writing on forms supplied by DEQ and include the information for a permit or permit modification as detailed in OAR 340 division 216 or 218, whichever is applicable.

(2) Application Processing: Applications will be reviewed and permits issued in accordance with the procedures in division 216 or 218, whichever is applicable.

(3) If after construction commences, the owner or operator intends to modify the project, the owner or operator must temporarily halt construction and obtain approval for the modification in accordance with permit application requirements in division 216 and this division.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

**340-224-0245**

**Requirements for Sources in Sustainment Areas**

Proposed new sources or existing sources with emission increases subject to OAR 340-222-0041(4)(b)(ii) must meet the requirements listed below:

(1) If the increase in emissions involves a physical change or a change in the method of operation that meets the definition of major modification as provided in OAR 340-224-0025, the owner or operator must apply BACT in accordance with OAR 340-224-0070(2).

(2) Air Quality Protection: The owner or operator must satisfy the requirements of sections (a) or (b), and (c) and (d):

(a) Air Quality Analysis: The owner or operator must provide an analysis of the air quality impacts of each pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification in accordance with OAR 340-225-0050(1) and (2) and 340-225-0060. For increases of direct PM2.5 or PM2.5 precursors equal to or greater than the significant emission rate, the owner or operator must provide an analysis of PM2.5 air quality impacts based on all increases of direct PM2.5 and PM2.5 precursors.

(b) Net Air Quality Benefit: The owner or operator must meet the requirements of OAR 340-224-0520 for ozone areas and 340-224-0540(3) and (4) for non-ozone areas, whichever is applicable.

(c) The owner or operator of a federal major source must meet the AQRV requirements in OAR 340-225-0070.

(d) The owner or operator 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 significant impact level, in accordance with OAR 340-202-0050(2).

(3) Sources Impacting Other Designated Areas: The owner or operator of any source that significantly impacts air quality in a designated area other than the one the source is locating in must meet the additional requirements of net air quality benefit in OAR 340-224-0520 or 340-224-0550, whichever is applicable.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

**340-224-0250**

**Requirements for Sources in Nonattainment Areas**

 Proposed new sources or existing sources with emission increases subject to OAR 340-222-0041(4)(b)(ii) must meet the requirements listed below:

(1) If the increase in emissions involves a physical change or a change in the method of operation that meets the definition of major modification as provided in OAR 340-224-0025, the owner or operator must apply BACT in accordance with OAR 340-224-0070(2).

(2) Air Quality Protection:

(a) Air Quality Analysis: An air quality analysis is not required except that the owner or operator of a federal major source must meet the AQRV requirements in OAR 340-225-0070.

(b) Net Air Quality Benefit: The owner or operator must meet the requirements of paragraph (A), (B), or (C), as applicable:

(A) The owner or operator must meet the requirements of OAR 340-224-0520 for ozone areas.

(B) For federal major sources, the owner or operator must meet the requirements of OAR 340-224-0540(2) and (5) for non-ozone areas.

(C) For non-federal majors sources, the owner or operator must meet the requirements of OAR 340-224-0540(3) and (5) for non-ozone areas.

(3) Sources Impacting Other Designated Areas: The owner or operator of any source that significantly impacts air quality in a designated area other than the one the source is locating in must meet the additional requirements of net air quality benefit in OAR 340-224-0520 or 340-224-0550, whichever is applicable.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

**340-224-0255**

**Requirements for Sources in Reattainment Areas**

Proposed new sources or existing sources with emission increases subject to OAR 340-222-0041(4)(b)(ii) must meet the requirements in OAR 340-224-0260 except sections (2)(b)(C) and (5) unless a contingency plan exists for the reattainment area.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

**340-224-0260**

**Requirements for Sources in Maintenance Areas**

Proposed new sources or existing sources with emission increases subject to OAR 340-222-0041(4)(b)(ii) must meet the requirements listed below:

(1) If the increase in emissions involves a physical change or a change in the method of operation that meets the definition of major modification as provided in OAR 340-224-0025, the owner or operator must apply BACT in accordance with OAR 340-224-0070(2), except in the Medford/Ashland AQMA where the source must apply LAER in accordance with OAR 340-224-0050(1).

(2) Air Quality Protection: The owner or operator must satisfy the requirements of section (a) or (b), and (c) and (d):

(a) Air Quality Analysis: The owner or operator must provide an analysis of the air quality impacts of each pollutant for which emissions will exceed the netting basis by the SER or more in accordance with OAR 340-225-0050(1) and (2) and 340-225-0060. For increases of direct PM2.5 of PM2.5 precursors equal to or greater than the significant emission rate, the owner or operator must provide an analysis of PM2.5 air quality impacts based on all increases of direct PM2.5 and PM2.5 precursors.

 (b) Net Air Quality Benefit: The owner or operator must demonstrate NAQB by satisfying one of the requirements listed below:

(A) meet the requirements of OAR 340-224-0520 for ozone areas and 340-224-0540(3) and (5) for non-ozone areas, whichever is applicable;

 (B) comply with the limits in OAR 340-202-0225 by performing the analysis specified in OAR 340-225-0045; or

(C) obtain an allocation from a growth allowance. The requirements of this section may be met in whole or in part in an ozone or carbon monoxide maintenance area with an allocation by DEQ from a growth allowance, if available, in accordance with the applicable maintenance plan in the SIP adopted by the EQC and approved by EPA. An allocation from a growth allowance used to meet the requirements of this section is not subject to section (2)(a) of this rule. Procedures for allocating the growth allowances for the Oregon portion of the Portland-Vancouver Interstate Maintenance Area for Ozone and the Portland Maintenance Area for Carbon Monoxide are contained in 340-242-0430 and 340-242-0440.

(c) The owner or operator of a federal major source must meet the AQRV requirements in OAR 340-225-0070.

(d) The owner or operator 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 significant impact level, in accordance with OAR 340-202-0050(2).

(3) Sources Impacting Other Designated Areas: The owner or operator of any source that significantly impacts air quality in a designated area other than the one the source is locating in must meet the additional requirements of net air quality benefit in OAR 340-224-0520 or 340-224-0550, whichever is applicable.

(4) Contingency Plan Requirements. If the contingency plan in an applicable maintenance plan is implemented due to a violation of an ambient air quality standard, this section applies in addition to other requirements of this rule until the EQC adopts a revised maintenance plan and EPA approves it as a SIP revision.

(a) The requirement for BACT in section (1) of this rule is replaced by the requirement for LAER contained in OAR 340-224-0050(1).

(b) The alternatives provided in subsections (2)(b)(B) and (2)(b)(C) no longer apply.

(5) Medford-Ashland AQMA: Proposed major sources and major modifications that would emit PM10 within the Medford-Ashland AQMA must meet the LAER emission control technology requirements in OAR 340-224-0050.

AQ maintenance area permitting rules are technically part of the maintenance plan for every maintenance area. Even though we are talking about it in the context of a rule revision, it is a revision to maintenance plan when it is submitted and approved. Whether we have to say it is more of a rule revision, it is technically a change to the maintenance plan. Does anything more need to be done to the maintenance plan? We need to decide once we decide what to do with maintenance plan rules. It becomes an issue on 10 year projections for emissions in a maintenance area. Will the emissions based on our rules changes be different from our projections for the maintenance plan? Do we need anything more for the maintenance plan than this little piece we are changing? We are sort of assuming the change to the maintenance plan is a change to the rules. If you have a substantive change to the rules, it will affect the maintenance plan. We need to say this looks like it is how we are going to change emissions in the maintenance area.

When Dave looked at our question and 112(l) and changes to 224, we are going from a rule that has 2 components, PSD and part D in NAA, maintenance areas and attainment areas to a new program that has attainment, sustainment, NAA, reattainment, and maintenance. Dave sketched out current structure and bifurcation to separate treatment and federal major and state major, from current SIP requirements to the proposed rule for state majors. They need to characterize what aspect of this rule might need a handwaving 112(l) description of what the proposed rule will do for sources versus what they would have to do based on current SIP. 112(l) is across whole rule, not just maintenance areas. Dave wasn’t trying to imply that we couldn’t have different requirements for state vs. federal majors. We just need to address the change in stringency.

The two aspects, NAQB and separation of state major from federal majors are the ones that need discussion for stringency. The new piece in the state major section that applies to attainment areas is an add-on to the current SIP. The two new programs are beyond minimum federal requirements. Sustainment and reattainment provisions by themselves are additions to the program so it’s a state decision on what it wants to add on as extras.

Don’t panic! (quote from ? in the Hitchhikers Guide to the Galaxies). There are no real unsolvable problems. What does DEQ need to do for the new structure and what do we want to maintain for state majors that SIP currently covers so we need to figure out how this affects SIP.

A 5 area state program rather than a 3 area state program is a plus that matches the real AQ problems and is within the scope of the CAA process of designating NAA, maintenance areas and back to attainment. It’s a great story to tell: regulating federal majors as least as stringent as federal program and state majors almost as stringent as federal majors. The existing program doesn’t distinguish between federal and state majors. Don’t trip over this. Need to explain why that is okay. Until we know what is different, hard to figure out what EPA needs to do to approve.

The proposed rule changes can even be a relaxation. 110(l) doesn’t say you can’t relax the SIP, you just have to show you are still meeting requirements. If the effect of changes in the permitting rules affects the permitting emissions projection, we may need to update the projection. If there is no change, then we don’t need to update the projection. By reorganizing the rule and separating state from federal majors, if it doesn’t affect emission projections, then it’s okay. State majors have more flexibility to ensure no increase over projections, then it’s okay. Don’t’ worry about it initially but EPA always get comments on SIP proposal. DEQ will get feedback first.

Not insurmountable. 912 savings clause is the mine field we need to negotiate. NAA rule for 1983 has all state major subject to NAA requirements. Only PM2.5 NAA now which we have a rationale for those, need to circle Oakridge PM10 and Salem Ozone when you break apart federal and state NAA rules. (I HAVE NO IDEA WHAT HE WAS SAYING HERE)

Figure out the changes to the federal major source rules, separate out state majors, figure out what we want to do for state majors in each new rule category, can be less stringent than federal majors but think about it in the context of our current SIP requirements, part D and maintenance rules, not covered by PSD rules. So in thinking about what new rule would require compared to the current rule, we need to think about 110(l). For federal majors, other than things unique to OR (NAQB), we are not changing things substantively.

For state majors in NAA, we are requiring BACT instead of LAER. This may cause a source to have to get a bigger offset and still not increase emissions. What is the change if we relax requirements for sources. The source would get to emit more pollution but what would program require for those sources. Offset or growth allowance but the airshed still sees we are managing growth. We need to show how would the new rule work and how it wouldn’t threaten our ability to maintain and attain standards. At the end of the day, if there are more emissions, what does that do to the emissions projection. We need to still make sure the airshed attains by attainment date. A maintenance plan revision is only needed if the affect of rule change means we wouldn’t meet the standards any more.

For the permitting rule, it is always hard to project because who knows how many sources are coming in? The inventory probably doesn’t even think about major source growth? Dave’s expectation is that is not going to affect any plans and their ability to attain or maintain standards. Just taking shackles off and giving more flexibility.

When we talk more about demonstration and what EPA needs, think about where exactly does new structure change and how does it affect current SIP and focus on that change. What is the final rule and what does it do to the current SIP? How can EPA meet its 110(l) obligation and how does the program still continue to meet all the requirements. It can relax, we just need to document the relaxation. It’s easy to show it meets federal major requirements. How much does current SIP change and whether we need to explain why the change is an unacceptable change. If enviros think we are giving away farm, then DEQ needs to work with them. Focus on how we are managing new source growth. The proposed program is more tailored to changing air quality situation, explain that to enviros and the opposite to industry.

Sources are off hook once area is back to attainment and waiting for EPA to designate, DEQ can take the foot off the pedal, but if new problem has occurred, DEQ will start tightening down. He maintenance plan is big plus for enviros. There are no federal requirements for maintenance plans.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

**340-224-0270**

**Requirement for Sources in Attainment and Unclassifiable Areas**

Proposed new sources or existing sources with emission increases subject to OAR 340-222-0041(4)(b)(ii) must meet the requirements listed below:

(1) Air Quality Protection:

Air Quality Analysis: The owner or operator must provide an analysis of the air quality impacts of each pollutant for which emissions will exceed the netting basis by the SER or more in accordance with OAR 340-225-0050(1) and (2) and 340-225-0060.

 (a) For increases of direct PM2.5 or PM2.5 precursors equal to or greater than the significant emission rate, the owner or operator must provide an analysis of PM2.5 air quality impacts based on all increases of direct PM2.5 and PM2.5 precursors.

(b) The owner or operator of a federal major source must meet the AQRV requirements in OAR 340-225-0070.

(c) The owner or operator 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 significant impact level, in accordance with OAR 340-202-0050(2).

(2) Sources Impacting Other Designated Areas: The owner or operator of any source that significantly impacts air quality in a designated area other than the one the source is locating in must meet the additional requirements of net air quality benefit in OAR 340-224-0520 or 340-224-0550, whichever is applicable.

**NOTE**: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

**OFFSETS**

**OAR 340-224-0500**

**Net Air Quality Benefit for Sources Locating Within or Impacting Designated Areas**

OAR 340-224-0510 through 340-224-0530 are the requirements for demonstrating net air quality benefit using offsets.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047.

**340-224-0510**

**Common Offset Requirements**

The purpose of these rules is to demonstrate reasonable further progress toward achieving or maintaining the ambient air quality standards for sources locating within or impacting designated areas.

(1) Unless otherwise specified in the rules, offsets required under this rule must meet the requirements of Emission Reduction Credits in OAR 340 division 268 and Requirements for New Sources When Using Residential Wood Fuel-Fired Device Offsets in OAR 340-240-0550.(2) Except as provided in section (3), the emission reductions used as offsets must be of the same type of pollutant as the emissions from the new source or modification. Sources of PM10 must be offset with particulate in the same size range.

(3) For PM2.5; inter-pollutant offsets are allowed as follows:

(a) 1 ton of direct PM2.5 may be used to offset 40 tons of SO2;

(b) 1 ton of direct PM2.5 may be used to offset 100 tons of NOx;

(c) 40 tons of SO2 may be used to offset 1 ton of direct PM2.5;

(d) 100 tons of NOx may be used to offset 1 ton of direct PM2.5.

(4) Emission reductions used as offsets must be equivalent in terms of short term, seasonal, and yearly time periods to mitigate the effects of the proposed emissions.

(5) In lieu of obtaining offsets, the owner or operator may obtain an allocation at the rate of 1:1 from a growth allowance, if available, in an applicable maintenance plan.

(6) If the complete New Source Review permit application or New Source Review permit that is issued based on that application is amended based on changes to the proposed project, the owner or operator may continue to use the original offsets and any additional offsets that may become necessary for the project provided that the changes to the project do not result in a change to the two digit Standard Industrial Classification (SIC) code associated with the project and that the offsets will continue to satisfy the offset criteria.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047.

**OAR 340-224-0520**

**Requirements for Demonstrating Net Air Quality Benefit for Ozone Areas**

For sources capable of impacting a designated ozone area:

(1) Offsets for VOC and NOx are required if the source will be located within the designated area or within the ozone precursor distance.

(2) The amount and location of offsets must be determined in accordance with this section:

(a) For new or modified sources locating within a designated sustainment, nonattainment, or reattainment area, the offset ratio is 1.1:1. These offsets must come from within either the same designated area as the new or modified source or another ozone nonattainment area with equal or higher nonattainment classification that contributes to a violation of the NAAQS in the same designated area as the new or modified source.

(b) For new or modified sources locating within a designated maintenance area, the offset ratio is 1.1:1. These offsets may come from within either the designated area or the ozone precursor distance.

(c) For new or modified sources locating outside the designated area, but within the ozone precursor distance, the offset ratio is 1:1. These offsets may come from within either the designated area or the ozone precursor distance.

(d) Offsets from outside the designated area but within the ozone precursor distance must be from sources affecting the designated area in a comparable manner to the proposed emissions increase. Methods for determining offsets are described in the ozone precursor offsets definition in OAR 340 division 225.

(e) Offsets obtained for a previous PSEL increase that did not involve resetting the netting basis can be credited toward offsets currently required for a PSEL increase.

(3) In lieu of obtaining offsets, the owner or operator may obtain an allocation at the rate of 1:1 from a growth allowance, if available, in an applicable maintenance plan.

[ED. NOTE: This rule was moved verbatim from OAR 340-225-0090(1) and amended in redline/strikeout.]

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047.

**340-224-0530**

**Definitions Used in Requirements for Demonstrating Net Air Quality Benefit for Ozone Areas**

(1) "Ozone Precursor Distance" means the distance in kilometers from the nearest boundary of a designated ozone area within which a major new or modified source of VOC or NOx is considered to significantly affect that designated area. The determination of significance is made by either the formula method or the demonstration method.

(a) The Formula Method.

(A) For sources with complete permit applications submitted before January 1, 2003: D = 30 km

(B) For sources with complete permit applications submitted on or after January 1, 2003: D = (Q/40) x 30 km

(C) D is the Ozone Precursor Distance in kilometers. The value for D is 100 kilometers when D is calculated to exceed 100 kilometers. Q is the larger of the NOx or VOC emissions increase from the source being evaluated in tons/year, and is quantified relative to the netting basis.

(D) If a source is located at a distance less than D from the designated area, the source is considered to have a significant effect on the designated area. If the source is located at a distance equal to or greater than D, it is not considered to have a significant effect.

(b) The Demonstration Method. An applicant may demonstrate to DEQ that the source or proposed source would not significantly impact a nonattainment area, reattainment area, or maintenance area. This demonstration may be based on an analysis of major topographic features, dispersion modeling, meteorological conditions, or other factors. If DEQ determines that the source or proposed source would not significantly impact the nonattainment area, reattainment area, or maintenance area under high ozone conditions, the Ozone Precursor Distance is zero kilometers.

(2) "Ozone Precursor Offsets" means the emission reductions required to offset emission increases from a major new or modified source located inside the designated nonattainment, reattainment, or maintenance area or within the Ozone Precursor Distance. Emission reductions must come from within the designated area or from within the Ozone Precursor Distance of the offsetting source as described above. The offsets determination is made by either the formula method or the demonstration method.

(a) The Formula Method.

(A) Required offsets (RO) for new or modified sources are determined as follows:

(i) For sources with complete permit applications submitted before January 1, 2003: RO = SQ

(ii) For sources with complete permit applications submitted on or after January 1, 2003: RO = (SQ minus (40/30 \* SD))

(B) Contributing sources may provide offsets (PO) calculated as follows: PO = CQ minus (40/30 \* CD)

(C) Multiple sources may contribute to the required offsets of a new source. For the formula method to be satisfied, total provided offsets (PO) must equal or exceed the required offset (RO).

(D) Definitions of factors used in paragraphs (A) (B) and (C) of this subsection:

(i) RO is the required offset of NOx or VOC in tons per year as a result of the source emissions increase. If RO is calculated to be negative, RO is set to zero;

(ii) SQ is the source emissions increase of NOx or VOC in tons per year above the netting basis;

(iii) SD is the source distance in kilometers to the nonattainment or maintenance area. SD is zero for sources located within the nonattainment,reattainment, or maintenance area.

(iv) PO is the provided offset from a contributing source and must be equal to or greater than zero;

(v) CQ is the contributing emissions reduction in tons per year quantified relative to contemporaneous pre-reduction actual emissions (OAR 340-268-0030(1)(b)).

(vi) CD is the contributing source distance in kilometers to the nonattainment, reattainment, or maintenance area. For a contributing source located within the nonattainment, reattainment, or maintenance area, CD equals zero.

(b) The Demonstration Method. An applicant may demonstrate to DEQ using dispersion modeling or other analyses the level and location of offsets that would be sufficient to provide actual reductions in concentrations of VOC or NOx in the designated area during high ozone conditions. The modeled reductions of ambient VOC or NOx concentrations resulting from the emissions offset must be demonstrated over a greater area and over a greater period of time within the designated area as compared to the modeled ambient VOC or NOx concentrations resulting from the emissions increase from the source subject to this rule. If DEQ determines that the demonstration is acceptable, then DEQ will approve the offsets proposed by the applicant. The demonstration method does not apply to sources located inside an ozone nonattainment area.

[ED. NOTE: This rule was moved verbatim from OAR 340-225-0010(10) and (11) and amended in redline/strikeout.]

**OAR 340-224-0540**

**Requirements for Demonstrating Net Air Quality Benefit for Non-Ozone Areas**

(1) When directed by the Major and State New Source Review rules, sources must comply with sections (2) through (4), whichever are applicable as specified in the designated area rules. For purposes of this rule, priority sources are sources identified in OAR 340-204-0300 for the designated area.

(2) The ratio must be no less than 1.2:1 if the offsets do not include offsets from priority sources. If the offsets include offsets from priority sources, the ratio may be reduced to no less than 1.0:1, as follows:

(a) If the owner or operator obtains offsets from priority sources that are greater than 0%, but less than 20% of the source’s potential emissions increase, then the owner or operator must obtain total offsets equal to greater than: 120% of the source’s potential emission increase minus the offsets from priority sources.

(b) The sum of the offsets from priority sources plus the offsets from non-priority sources must be equal to or greater than the source’s potential emissions increase.

Mathematically:

If P = 0% of E, R = 1.20

If P > 0% E and < 20% of E, R = 1.20 - %P/100

If P ≥ 20% of E, R = 1.00

Total offsets required = E x R = O + P

P = offsets from priority sources identified for the designated area (tons/yr)

E = potential emissions increase due to the new or modified source or PSEL increase (tons/yr);

R = ratio of required offsets to E (fraction)

O = offsets from non-priority sources (tons/yr)

Total Offsets (tons/yr) = P + O ≥ E

(3) The ratio must be no less than 1.0:1 if the offsets do not include offsets from priority sources. If the offsets include offsets from priority sources, the ratio may be reduced to no less than 0.5:1, as follows:

(a) If the owner or operator obtains offsets from priority sources that are greater than 0%, but less than 50% of the source’s potential emissions increase, then the owner or operator must obtain total offsets equal to or greater than: 100% of the source’s potential emission increase minus the offsets from priority sources.

(b) The sum of the offsets from priority sources plus the offsets from non-priority sources must be equal to or greater than 50% of the source’s potential emissions increase.

If P = 0% of E, R = 1.00

If P > 0% E and < 50% of E, R = 1.00 - %P/100

If P ≥ 50% of E, R = 0.5

Total offsets required = E x R = O + P

P = offsets from priority sources identified for the designated area (tons/yr)

E = potential emissions increase due to the new or modified source or PSEL increase (tons/yr);

R = ratio of required offsets to E (fraction)

O = offsets from non-priority sources (tons/yr)

Total Offsets (tons/yr) = P + O

(4) The offsets must be no less than 10 percent of the source’s potential emissions increase except the percentage may be reduced to no less than 5 percent for each percent obtained from priority sources. For example, initially an owner or operator is required to get 10 percent of the potential emissions increase but obtains two percent from priority sources, then the overall offset requirement is 8 percent of the source’s potential emissions.

(5) The owner or operator must conduct dispersion modeling in accordance with division 225 that demonstrates compliance with the criteria in subsection (a) or the criteria in subsections (b) and (c):

(a) the impacts from the emission increases above the source’s netting basis are less than the Class II SIL at all receptors within the designated area; or

(b) the impacts from the emission increases above the source’s netting basis are 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

(c) 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, determined as follows:

(A) subtract the offsets from priority sources from the new or modified source’s emission increase;

 (B) If the source’s emissions are not offset 100 percent by priority sources, conduct dispersion modeling of the following emissions:

(i) the source’s remaining emission increases after subtracting the priority source offsets specified in (A); and

(ii) the emission increases or decreases from all other sources since the date the area was designated, including offsets used for the proposed project, but excluding offsets from priority sources.

(C) If the source’s emissions are offset 100 percent by priority sources, no further analysis is required.

**OAR 340-224-0550**

**Sources in a Designated Area Impacting Other Designated Areas**

(1) When directed by the Major and State New Source Review rules, sources locating outside, but impacting any designated area other than an attainment or unclassified area:

(a) For the purpose of this section, a source has a significant impact on a designated area if the source’s emissions have a single source impact greater than the Class II SIL at any receptor within the designated area.

(b) The owner or operator must obtain offsets sufficient to reduce impacts to less than the Class II SIL at all receptors within the designated area; or

(c) must obtain offsets in accordance with OAR 340-224-0540(3), provided the offsets are demonstrated to have a significant impact on the designated area.

(2) When directed by the Major and State New Source Review rules, sources locating outside, but impacting any attainment and unclassified areas must provide an analysis of the air quality impacts of each pollutant for which emissions will exceed the netting basis by the SER or more due to the proposed source or modification in accordance with OAR 340-225-0050(1) and (2).

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-020-0047.