Proposed Rulemaking Topics for Discussion

10/24/12 DEQ/EPA Meeting

**Air Quality Permitting Program Updates** - Jill Inahara

We are proposing to the following changes to our rules:

* move all of the procedures out of definitions into specific rules;
* repeal outdated rules (aluminum, sulfite pulp mill, ferronickel);
* include test methods with all standards;
* repeal 40% grain loading and 0.2 grain/dscf;
* revise minor source NSR; and
* clarify rules.

As you know, many or our SIP rules are based on 40-year old rules that were adopted from local air agencies when DEQ was formed and do not align with the current environmental situation. No analysis was done at the time the statewide standards were adopted to ensure that they protect the NAAQS. We propose to change these rules as explained below.

**Repeal 40% opacity and 0.2 grain/dscf** - Jill Inahara

We are proposing to repeal 40% opacity and 0.2 grain/dscf standards that apply to sources that were constructed, or modified before June 1, 1970 and require that all sources meet 20% opacity and 0.10 grain/dscf. The higher standards were not intended to allow old sources to pollute at higher levels indefinitely. Eliminating them will provide equity for sources.

We propose to allow visible emissions from wood fired boilers and process heaters installed on or before June 1, 1970 that have not been modified since June 1, 1970 to exceed 20% during periods of soot blowing and/or grate cleaning. These periods are limited to not more than 15 minutes in any 8 consecutive hours. This provision is the same as allowed under the Southwest Clean Air Agency rules. We will also include a 3-year compliance schedule for sources that are not in compliance with these standards.

**Significant figures of standards** - Gary Andes

In the EPA June 6, 1990 Memo - Performance Test Calculation Guidelines, it states that agencies should consider all emission standards to have at least two significant figures but no more than three. Is this interpretation still correct or has there been a new interpretation? (ATTACH)

**3-minute aggregate opacity limit vs. 6-minute averages** - Mark Fisher

We would like to eliminate the “three minutes in any one hour” language from our opacity standards and use the 6-minute average as required in EPA Method 9. As you know, in some instances the aggregate 3 minutes in an hour is more stringent and in other instances the 6-minute average is more stringent. When a source is having opacity problems, we believe that the opacity is usually high for a shorter period of time. In this situation, the 6-minute average opacity limit is more stringent. Therefore, we do not consider this rule change to be a SIP relaxation.

**Specific standards vs. general statewide standards** - George Davis

We would like to exempt sources subject to source specific standards in other divisions from the general statewide opacity, grain loading and process weight standards if the specific rule has a standard for the same pollutant. For example, if the specific rule does not address opacity, then the general opacity standard would still apply. By applying only the source specific standards, the Department will eliminate confusion and streamline permitting requirements.

Specific standards, such as New Source Performance Standards (NSPS) and National Emission Standard for Hazardous Air Pollutants are specifically written for certain industries. These rules are more stringent than the general statewide standards except that they do not apply during periods of startup/shutdown as the general statewide standards do. To address the stringency issue during startup/shutdown, a requirement that any source exempt from the general opacity and grain loading standards must have a startup/shutdown plan in accordance with 340-314-0340 has been added. This would be equivalent to existing practices in which we exercise enforcement discretion for excess emissions that are minimized during startup/shutdown.

**PSD 18-month extensions for good cause** - Mark Fisher

What analysis is required for DEQ to approve an extension to the 18-month approval period if construction is not commenced other than showing good cause? A new BACT analysis? A new modeling analysis? How many extensions can we grant?

One source has asked for two extensions for its PSD permit. In the meantime, the area became a PM2.5 nonattainment area so the source was required to redo the BACT analysis and also model for PM2.5 impacts. In other situations where nothing changes from the initial application, what should be required for the extension approval?

**Net Air Quality Benefit** - Phil Allen

**340-225-0090**

**Requirements for Demonstrating a Net Air Quality Benefit**

(2)(a)(D)(i) "Net Air Quality Benefit" means 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 language was added to Division 225 during the SPPIT I rulemaking in 2001 as a result of EPA comments. We have not been able to find any similar requirements in the federal NSR rules or any other state rules. In order to result in less than a significant impact level increase at all modeled receptors, the new/modified source and the offsetting source must virtually be co-located, which is almost never the case.

We propose that sources only be required to obtain offsets. We would drop the net air quality benefit for sources. This may appear to be a SIP relaxation but since we have never applied it before and it is not feasible, we do not feel that is the case.

**Nonattainment and maintenance NSR for non-federal majors** - Mark Fisher

Because we are proposing the changes listed below to the NSR/PSD program, we thought restructuring our program into two separate programs for federal majors and non-federal majors would make the proposed changes more readily approvable. As you know, in Oregon, a source is major sources if it emits at the significant emission rate. This requires much smaller sources (10 ton PM2.5 sources) to go through nonattainment and maintenance NSR. These sources would be considered minor sources under the federal NSR program, which does not have specific requirements for minor sources, other than assuring that the national ambient air quality standards are achieved, prohibiting emissions which will contribute significantly to nonattainment in, or interfere with maintenance with respect to any such national primary or secondary ambient air quality standard, or interfere with measures required to be included in the applicable implementation plan to prevent significant deterioration of air quality or to protect visibility.

Since Oregon’s minor NSR requirements are much more stringent than the federal minor NSR program, we feel that the following changes to our minor NSR program only (not federal major NSR program) would make it more workable and still achieve the goals of the Clean Air Act.

**Areas violating NAAQS but not yet designated NAA** – Mark Fisher

DEQ has monitored ambient air quality levels above the PM2.5 NAAQS in the Lakeview area, which is not designated as a nonattainment area. Without a nonattainment designation, non-federal major sources that build or modify with emissions greater than the SER would be required to comply with the modeling requirements in our PSEL rule. OAR 340-222-0041(3)(b)(C) requires a demonstration of compliance with the NAAQS and PSD increments. If the emissions increases are greater than the Class II SILs, the requirement for demonstrating compliance with the NAAQS cannot be met since the background concentration is already over the NAAQS.

Possible options might be to require offsets ratio of greater than 1:1and at least X% of offsets from sources or activities that are known to contribute the most of the NAAQS exceedance; BACT; modeling for increment, or requesting nonattainment designation after buy off from the community.

Has this situation occurred in other states and if so, how have they handled it?

**Attainment Plan/Maintenance Plan Bridge** - David Collier

In nonattainment areas, after we have three years of monitoring showing attainment and continued monitored attainment, we would like to allow non-federal major sources to construct or modify under maintenance plan rule requirements before the maintenance plan is approved. Since approval of the maintenance plan can take a number of years, this provision would allow smaller sources to construct or modify without requiring LAER. For smaller sources, LAER could be prohibitively expensive.

This proposed change may be viewed as a SIP relaxation but without it, economic development may not occur. What kind of analysis would be required for this proposal to be approved?