EQCMeeting1of1DOC19810630

6/30/1981

OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS

State of Oregon
Department of Environmental Quality

OREGON ENVIRONMENTAL QUALITY COMMISSION

JUNE 30 and JULY 1, 1981

Room 1400
DEQ Headquarters
522 S. W. Fifth Avenue
Portland, Oregon

June 30, 1981:

7:00 p.m.	Work Session on New Source Review Rule and Plant Site Emission Limit

July 1, 1981:

7:30 a.m.	Continued Work Session on New Source Review Rule and Plant Site Emission Limit

---

The Environmental Quality Commission will conduct a work session in a special meeting on June 30 and July 1 in Portland to consider previously submitted testimony concerning the proposed state administrative rule regulating review of new industrial air pollution sources (New Source Review) and limits on air emissions from industrial plant sites (Plant Site Emission Limit).

No public testimony is scheduled for these work sessions, though the Commission may direct questions to representatives of the various affected groups and organizations.

A public hearing on this matter was held April 24, 1981, the record was held open for a period after that for submission of written testimony, and then the record was closed. The record will not be re-opened. Though scheduled for a work session at their regular meeting on June 5, insufficient time caused the postponement of the work session to this special meeting.

No action will be taken on the final adoption of these proposed rules at this meeting. Final action will be scheduled for a regular EQC meeting.

Affected interest groups are encouraged by the Commission to be present at the special meetings. The Commission expressed a desire that the major affected parties--industrial, environmental/public interest groups, along with local governments--agree on a single spokesperson to represent their interests in the Commission's discussions. The industry representative, the environmental/public interest representative, and the local governments representative should be prepared to detail to the Commission their groups' positions on the various issues involved in setting these rules.

###

ENVIRONMENTAL QUALITY COMMISSION

MINUTES OF SPECIAL WORK SESSION

June 30 - July 1, 1981
Portland, Oregon

Participants:

EQC	Staff	Interested Parties
Joe Richards	Bill Young	Tom Donaca, AOI
Fred Burgess	Jack Weathersbee	Bill Cook, OEC
Mary Bishop	John Kowalczyk	Don Arkell, LRAPA
	Lloyd Kostow	Cynthia Kurtz, City of Portland

Chairman Richards opened the meeting at 7 p.m. Mr. Young stated that he had no specific format for proceeding. Mr. Richards said he would like to discuss the issues contained in the June 5, 1981, staff report in the order they appear in the report.[1]

Issue 1

Plant Site Emission Limits should not be based on actual emissions as proposed but rather on plant design capacity. This comment was made by several commentors and a member of the Commission asked for a discussion of this point.

The proposed rules would require that Plant Site Emission Limits be based on actual emissions during the 1977-78 baseline period or another period if it is more representative of normal source operation. Existing permit limits may be used for the Plant Site Limit if they are within 10 percent of the acual emissions. Plant Site Emission Limits could be established at higher levels to accommodate needed production increases up to capacity if it is shown that no air quality standard or Prevention of Significant Deterioration (PSD) increment would be exceeded in an attainment area or that a growth increment or offset is provided in a non-attainment area.

[2] Richards: Why use 1977-78 as baseline year?

Weathersbee: The Federal requirements are that the PSD baseline "triggering date" is either the 1977 emission level or the first PSD application. Most of the densely populated areas of the State have been triggered by 1978 PSD applications.

Richards: Why not use 1978, 1979, or later?

Weathersbee: Our rules allow using 1978, but there has been too much fuel switching since then. This has resulted in substantial increases in emissions with significant consumption of PSD increments without public notice or public participation.

1) Issue Statements are excerpted from the June 5 staff report and included here for clarity.

2) Statements ascribed to specific participants were reproduced from secretarial notes and are not necessarily verbatim. A complete taped record is available if needed.

Young: Continued by outlining some of the options that were before the Commission. Fuel switches were a large problem. SO_2 or particulate emissions might be twice what was projected in the initial permit application.

Richards: Asked if that could be addressed when the permit application was up.

Weathersbee: Responded that the fuel switching issue could be handled in the normal permit renewal procedures, but that would be without set procedures or Commission guidance unless specific rules are adopted.

Richards: Moved on to the concerns of the Northwest Pulp and Paper Manufacturers that there is no requirement for a PSEL by the Feds in order to administer and offset and banking program.

Weathersbee: Responded that EPA did not require PSEL's per se, but they did in fact require that baseline emissions be established based on actual emissions. Other states have established allowable emissions, based on actual emissions and others are in the process.

Young: Questioned how one would run such a program without c plant limits.

Arkell: LRAPA is in favor of PSELs; supports staff report using baseline and actual emissions as indicated in staff report.

Cook: In favor of actual emission baseline.

Donaca: Not the way to proceed. NSRR should stand by itself. Questions how accurate baseline can be arrived at--by monitoring, source testing, or permit limits? Should use EI, emission factors too unsure ±20%, AQ problem no longer primarily caused by industry, use actual emissions for bubbling, based on when you apply. Cites factors for fuel switching--cost of fuel has more than quadrupled since 1973. Disadvantaging Oregon pulp and paper from other Northwest competitors. Wants PSEL rule discarded.

Burgess: Asked what would be the result if the PSEL were based not on actual emissions but on permit limits in force in 1977-78.

Weathersbee: Responded that not all permits contained total mass

emission limits for all pollutants; many contained only concentration limits. The airshed responds to total emissions and to manage an airshed the Department must have the ability to regulate total emissions for all significant pollutants.

Richards: Agreed with Donaca that the Commission did not control all the sources of air pollution. He felt the Commission was out to establish that part of the airshed that should be assigned to existing industry. Plant capacity limits are too unknown. Richards asked Donaca within the context of the rules, how could they be improved without going all the way to plant capacity.

Donaca: Problems:

1. 1977 levels too low.
2. Variances within business that will disadvantage those which were trying to do good.

Bishop: Wouldn't it be better to have some rule applied to all plants and allow those who feel "wronged" to apply to the Commission for waiver or rule amendment than to have no standards at all?

Donaca: In that case (maybe about 20% of the 300 existing permitted plants might need variances), they EQC would have to amend the rule or allow inequity to exist.

Richards: How about using actual emission limits but exclude any reference to residual oil?

Donaca: Doesn't think EQC should walk away from residual oil issue. These rules are treating the entire state as one airshed by having one baseline throughout the state. He believes the fuel switching impacts are not as extreme as the staff has characterized.

Richards: Can't successfully use 79-80 emission levels, too many inequities. He is inclined to stay with the staff report.

Burgess: Agreed with need for baseline, but wondered if actual emissions plus 10 - 15% might be better.

Bishop: Reminded Commission that variances are possible if justified. Agreed with need for baseline.

Young: Wanted the staff to clarify how permit holders would

get their permits before the Commission if they felt the PSELs were not equitable.

Richards: Questions Donaca about the need for a special variance procedure.

Weathersbee: Reminded the Commission that in some permits a permit condition has intentially and with the permission of the applicant been set to a tighter than normal level. This was done to allow increased production without increases in emissions in extremely tight airsheds.

Richards: Invited Donaca to submit written language before the next EQC meeting, addressing the problem of differences between industries who have been assigned different baselines because of savings on the part of one or the other.

THE COMMISSION MEMBERS INDICATED A CONCENSUS THAT PSELS ARE NEEDED AND SHOULD BE BASED ON ACTUAL EMISSIONS. GROSS INEQUITIES COULD BE HANDLED THROUGH VARIANCES AND IF NUMEROUS THROUGH RULE CHANGE.

Issue 2

The major new source cutoff criteria for non-attainment areas should be higher than the "significant emission rate" level. Several commentors suggested higher levels and a Commission member asked if this suggestion had merit.

The proposed rule establishes the cutoff for both major new sources and major modifications in non-attainment areas and areas adjacent to non-attainment areas at the "significant emission rate" level (25 tons per year for particulate and 40 tons per year for VOC). EPA would allow 100 tons per year for new sources but would still require significant emission rate levels for modifications. The proposed rule establishes cutoffs for attainment areas at the same level as EPA.

Weathersbee: Described the new source portion of the rule: How it would apply to sources of various sizes in non-attainment areas, attainment areas, and attainment areas close to non-attainment areas where screening modelling would be required by the source or the Department to determine whether or not they would have a significant impact on the non-attainment areas. If a source did have a significant impact that impact would have to be mitigated.

Arkell: Jackson County favors the 5 ton limit. Lane County

favors the staff proposal. The City of Portland is concerned about the proposed 25 ton cutoff because of workload and number of sources involved. Wants 50 ton cutoff. Desires greater recognition of the differences between airsheds. Recommends a case-by-case cutoff for N/A areas.

Cook: Supports Department's 25 ton figure. Fair to existing sources and new sources. All should be subject to the same level of review.

Donaca: Agrees with Portland.

Richards: Fifty (50) tons for new, 25 for modified: Problem?

Weathersbee: Only 16 sources greater than 25 tons/year in the Portland AQMA. Twenty-five (25) tons is equal to about 1 ug, and 50 tons is equal to about 2 ug. This is a significant impact considering we are going to great extremes to get 1 to 2 ug improvements.

Kurtz: Don't want to prioritize new sources over existing sources. We know Portland airshed and think 50 tons is fair. Questioned if offsets would be available to sources between 25 and 50 tons.

THE COMMISSION DID NOT INDICATE A NEED FOR CHANGE IN THE PROPOSED CUTOFF LIMITS OF 25 T/YR. FOR PORTLAND AND 5 T/YR. FOR MEDFORD, BUT IT WAS UNDERSTOOD THAT LRAPA COULD ADOPT A LOWER (MORE STRINGENT) CUTOFF FOR LANE COUNTY UNDER THE PRESENTLY PROPOSED RULE.

Issue 3

The Emission Reduction Credit Banking rules are too restrictive and should be liberalized by (a) allowing shutdowns and curtailments to be bankable, (b) eliminating the discounting provisions, and (c) eliminating the 10 year maximum banking period. Several commentors discussed these points and a Commission member asked for an evaluation of these issues.

The proposed banking rule does not allow long-term banking of shutdowns and curtailments. Shutdowns and curtailments can be used within one year for contemporaneous offsets, however. The proposed rule has provisions which require discounting of banked credits when new rules are adopted and also allows the Commission to discount banked credits if no other strategies for attainment are available. The maximum banking period is 10 years unless extended by the Commission.

Many commentors disapproved of the provision in the banking rule (pro-

vision 6 of OAR 340-20-265) which would allow the Commission to discount banked emissions when no other strategies are available. The Department agrees that this provision may provide a needless disincentive and therefore to satisfy these comments it is proposed that this provision be replaced by a moratorium on withdrawals from the bank.

Richards: Wants some time limit set on any moratorium declared by the Commission. Concerned about chilling the market. As a suggestion, wants language to read something like ". . . not to exceed two years and not to count against the 10 year period . . ."

Weathersbee: It should be understood that the rule provides that a moratorium is strictly a last-ditch measure with the provision that additional search for new strategies will be initiated.

Richards: What about a shorter duration, without moratorium, and without discount. Limit the moratorium to two years.

Bishop: Tough issue.

Underwood: There is already a tough standard in the rule for the Commission to meet should they wish to impose the moratorium.

Kurtz: Wants offsets tied to an enforceable permit and not to be reallocated to the public bank. Lane County also agrees that the one year time limit is too short. Also wants tied to permit or that the offset would be banked but discounted each year to encourage quick turnover by facility.

Weathersbee: Commission could start one year contemporaneous countdown or could move to revoke permit if it judges that it is indeed a permanent shutdown. The staff will see to it that some language to this effect is included in the proposed rule. Options include:

1. Department move to revoke permit
2. Department is petitioned to revoke permit
3. Permit turned back
4. Permit expires

Donaca: Shift cutbacks included?

Weathersbee: No.

Donaca: Thinks that any facility in a shutdown condition

would not sell their offset; it would be considered more valuable to them than to anyone else.

Burgess: Wants some clear language to reflect a permit-revocation triggering. Underwood could help staff draft this language. Wants a two year limit for contemporaneous offsets in the case of shutdown or curtailments.

Arkell: Lane County and Portland prefer 5 ton limit on bankable emissions.

Richards: Two year question a philosophical one.

Burgess and Richards: One year is too short.

THE COMMISSION DIRECTED THE STAFF TO DRAFT LANGUAGE WHICH WOULD OFFICIALLY IDENTIFY THE START OF A PERMANENT SHUTDOWN, AND TO RESTRICT ANY MORATORIUM AGAINST USE OF BANKED EMISSIONS TO TWO YEARS AND NOT HAVE THE MORATORIUM PERIOD COUNT AGAINST THE 10 YEAR MAXIMUM BANKING PERIOD.

Issue 4

No discussion or comments on this issue.

Issue 5

One commentor testified that exemption from offsets should not be allowed for resources recovery facilities.

The proposed rules provide that Resource Recovery Units may be granted an exemption provided that all offsets that are reasonably available have been obtained. The advantage of this approach is that this provision may help to recover valuable material and energy resources. This exemption is allowed by EPA rules.

Arkell: Said Oregon City is concerned about exemptions of resource recovery facilities from offsets and wants re-evaluation of their ability to obtain offsets at specified intervals in future years.

Cook: Supports the idea that resource recovery should find offsets; wants exception eliminated from proposed rule.

Donaca: Retain exemption.

THE COMMISSION DID NOT INDICATE ANY NEED FOR CHANGE IN THE PROPOSED RULE. THE DEPARTMENT WILL REQUIRE OFFSETS TO THE EXTENT THEY ARE REASONABLY

AVAILABLE.

Issue 6

One commentor testified that the required emission offset ratio should be 1:1.3 rather than 1:1.

The proposed rules require equivalent or greater emission offsets such that a net air quality benefit is provided. The advantage of this approach is that the requirement of net air quality benefit will in most cases result in a greater than 1:1 offset ration wich is appropriate for the particular pollutant and geographical area.

Cook: Wants 1:1.3 instead 1:1, similar to the policy adopted by Puget Sound recently rather than "net air quality benefit" of proposed rules.

Richards: 1.3 too high.

THE COMMISSION DID NOT INDICATE A WORD CHANGE AND APPEARED WILLING TO RELY ON PROPOSED DEMONSTRATION OF "NET AIR QUALITY BENEFIT."

Issue 7

Several commentors testified that the requirement for fine particulate be offset with fine particulate is not appropriate since we have a Tota_ Suspended Particulate (TSP) standard.

It is widely agreed that the present TSP standard is not adequate to protect against adverse health effects. The proposed rule requires that respirable particulate emissions be offset with respirable particulate. The advantage of this approach is that large particulate could not be traded for respirable particulate, thereby preventing increases in the level of pollutant that actually causes adverse health effects.

Arkell: Offsets should not be required to be of the same particle size category. There is no regulatory basis for this distinction on the basis of size because the NAAQS is based on TOTAL particulate. There are no fine standards. LRAPA would advocate a screening process where if the applicant could demonstrate that there were no offsets available within the smaller size category, then offsets in the larger size could be used. LRAPA will respond to the Commission with the language for process that would allow an applicant to move to the coarser offsets if fines were not available.

Donaca: The rule is too specific and one could never find offsets.

Too staff-intensive to break the trail on this tough issue.

Arkell: Could use size ratio by source category.

Burgess: Size ratio idea has merit.

Weathersbee: Can do it under the existing "equivalent" language.

Cook: Afraid that there will be more fine particulates in the air.

NO WORDING CHANGE PROPOSED.

Issue 8

Several commentors testified that the reserved control strategies to protect the Portland Ozone SIP are not needed.

The proposed rules reserve six control strategies to prevent them from being used as offsets until the time that Portland Ozone SIP is completed.

This provision may not be justifiable in light of recent calculations concerning the 0.12 ppm ozone standard attainment strategies. Also provision 5 of the banking rule (OAR 340-20-265) provides for discounting of banked emissions if new control strategies are adopted.

Donaca: Standard regarding ozone should be decided in the near future, .08 vs. .12.

Weathersbee: Department is waiting for NRDC lawsuit outcome; will probably bring the matter before the Commission in September.

Richards: Basic up or down issue.

PORTLAND OZONE RESERVED CONTROL STRATEGIES (OAR 340-20-265) WILL BE DELETED FROM THE PROPOSED RULES.

- END OF THE EVENING SESSION - 10:30 p.m.

- START OF MORNING SESSION - 7:30 a.m.

Issue 9

One commentor testified that separate Plant Site Emission Limits should not be established for combustion sources, process sources, and fugitive sources as allowed in OAR 340-20-310(3). A Commission member also questioned this provision.

This provision is designed to facilitate emission calculations for dissimilar emission units within a particular source and to speed up permit processing for such permit modifications as fuel switching. This provision would also make it easier for the Department to manage bubbling of dissimilar pollutant emissions. This provision does not limit bubbling or offsetting within the total plant site.

NO WORDING CHANGE REQUESTED, BUT STAFF WILL RE-LOOK AT PROPOSED RULE TO MAKE SURE OFFSETTING AND BUBBLING ARE NOT PRECLUDED.

Issue 10

One commentor testified that the rules should provide flexibility so that other agencies such as LRAPA can develop growth management strategies whch could be more stringent.

The proposed rules limit the minimum bankable offset to 10 tons.

The proposed rules do not limit the authority of local jurisdictions to adopt additional, more stringent measures.

Arkell: We don't anticipate any new major industrial sources in Lane Regional. Mostly nickel and dime stuff. LRAPA needs the greater flexibility than the 10 tons would allow. Wants to be able to build offset banking program for smaller sources. Not a stringency issue. LRAPA will not be able to use NSRR program to attain standards as the limit is 25 tons.

Richards: Allow sources to go down to 10 tons?

Donaca: A lot of questions here.

Arkell: Let each AQMA set up their own growth management system within the AQMA.

Richards: Nervous about this proposal. Too much power. Asks Arkell to develop appropriate language for his idea and distribute it to the Commission prior July 17 meeting.

Cook: No comment.

Donaca: No comment.

LRAPA ASKED TO DEVELOP APPROPRIATE LANGUAGE.

Issue 11

One commentor testified that PGE turbines had zero operation during the baseline period.

The proposed rule provides that PSD increments and the emission rates associated with their usage can be allocated at the time the Plant Site Emission Limit is negotiated. The Plant Site Emission Limits have already been established for these turbines taking into account PSD increment consumption. The proposed rules would require no changes to these existing limits.

Donaca: P P & L and PGE are very concerned because of their turbines. Add language specifically relating to electric generating facilities.

Kowalczyk: Thinks the proposed rule includes provision for this.

IT WAS CONCLUDED THAT THE BEAVER AND BETHEL TURBINES COULD BE ACCOMMODATED UNDER THE PRESENTLY PROPOSED RULE.

Issue 12

One commentor testified that the baseline concentration is defined such that PGE Boardman would fall into the increment rather than the baseline contrary to a 1975 letter received by PGE from EPA stating that the facility would fall into the baseline.

The proposed rules follow EPA's baseline criteria. The 1977 Clean Air Act Amendments and subsequent court rulings have altered the baseline criteria since the 1975 letter. It is the understanding of the Department from discussions with EPA that PGE's 1975 letter may no longer be valid. A relaxation of the proposed criteria would mean that the State rule would be less stringent thatn EPA requirements and therefore might be disapproved by EPA. PGE should contact EPA directly to resolve this matter.

Roland Johnson: (Assistant General Counsel for PGE) Thinks that a reasonable worst-case basis is the best standard for additional two units at Boardman, among others.

Wants language added following 340-20-225 (p. 3 of staff report): ". . . emissions from sources not subject to NSR under EPA regulations in effect on March 24, 1975, shall be included in the baseline concentration."

Richards: Asked Johnson to submit written language for Issue 12 for consideration at July 17 meeting. Might have to wrestle with EPA over this.

Johnson: Said that Donaca will submit that language to staff.

Cook: No comment.

Arkell: No comment.

Weathersbee: The Department can live with PGE Boardman #1 within the baseline, however we should not add language to the rule that would make it impossible for EPA to approve it.

THE COMMISSION DIRECTED THE STAFF TO DO WHAT IT CAN TO GET EPA TO ACCEPT BOARDMAN #1 WITHIN THE BASELINE.

Issue 13

No comment.

Issue 14

The Jackson County Commissioners commented that a VOC growth increment for Medford should not be adopted until the question of the 0.08 ppm State ozone standard is resolved.

The VOC growth increment was adopted by the Commission in 1979 as part of the Medford ozone SIP which is based on the 0.12 ppm Federal standard. Since the Department was directed by the Commission to develop SIPs based on the 0.12 ppm standard, it seems appropriate to let the present growth increment stand until such time as a new State strategy is developed to achieve the 0.08 ppm ozone standard.

Donaca: Claims that rule should not include a number standard because EPA's judgments are still fluctuating and that the ultimate standard will be something other than .08 or .12.

Richards: Isolate the language for the .08 standard or .12 standard and the Commission will take it up or down on the 17th.

Arkell: Jackson County is confused on this issue. They are concerned that the area will be confronted with sanctions if the .08 standard is not met.

Weathersbee: Staff will call Jackson County and discuss concerns.

Cook: No comment.

STAFF WILL NOTIFY JACKSON COUNTY THAT THE .08 STANDARD COMPLIANCE DATE IS NOT IN THE FEDERALLY APPROVED SIP AND IS NOT ENFORCEABLE BY EPA: ALSO ADVISE THEM OF RECENT DATA THAT SHOWS THE AREA MAY BE IN ATTAINMENT WITH THE 0.12 STANDARD AFTER 1981.

Issues 15 through 21

No comment.

Issue 22

One commentor contended that emissions from the construction phase of a new source or modification should be exempt from all requirements including BACT and LAER.

The proposed rule would exempt emissions from the construction phase of a project from all requirements except BACT and LAER (OAR 340-20-250(2)). Generally, construction emissions should be small and temporary. However, in the case of major projects, construction emissions could involve extensive dust problems or the installation of temporary sources. Also, such projects could continue for a number of years. Such construction sources should be subject to BACT or LAER depending on whether the area is attainment or non-attainment.

Donaca: Applying LAER to a construction site is difficult, but willing to see how it plays out in this form.

NO CHANGE.

Issue 23

One commentor contended that the period allowed for "contemporaneous" offsets should be increased from one year to fice years (OAR 340-20-260(4)). Several commentors stated that the meaning of the term "permanent" shutdown or curtailment is not clearly defined and that some plant modifications may be in the planning stages for more than one year. A Commission member asked for a justification for holding the contemporaneous period to one year.

THIS ISSUE WAS DEALT WITH UNDER ISSUE 3.

Issue 24

No comment

Issue 25

One commentor stated that the word "demonstration" which is used in OAR 340-20-260 Net Air Quality Benefit was not defined. A Commission member asked if this term was defined elsewhere in the rules or by past practice.

The term "demonstration" is used in the rules in the context of a "demonstration that standards are not violated." The term is simply

intended to have the dictionary definition of "proof." There are many ways of providing such demonstrations including modeling, engineering calculations, or other logical and reasonable arguments.

Richards: "Demonstration" means "proof," and he is comfortable with this language.

NO CHANGE IN RULE.

This concluded discussion of the PSEL proposed rules.

Mr. Young suggested that the group ought to consider any problems with the New Source Review Rules.

It was generally conceded that most of the problems with the NSR rules were covered in the issues already discussed.

At this point, Mr. Young reminded the Commission that EPA had identified three problem areas in the proposed rule that they deemed would have to be corrected in order for EPA to approve the rules.

It was determined that EPA's objections dealt mostly with technical errors or needed clarifications which would not significantly change the effect of the rule.

IT WAS AGREED THAT THE STAFF WOULD HAVE PROPOSED LANGUAGE TO RESPOND TO EPA'S CONCERNS FOR COMMISSION CONSIDERATION AT ITS JULY 17 MEETING.

There being no further comment, the workshop was adjourned at 8:50 a.m.

STATE OF OREGON

INTEROFFICE MEMO

O/D
DEPT.

229-5395
TELEPHONE

TO: EQC/Underwood

DATE: June 9, 1981

FROM: Bill Young

SUBJECT: PSEL and NSR Rules

The copies of the existing Administrative Rules that would be replaced should the New Source Review Rule and the Plant Site Emission Limit Rule be adopted were difficult to read. Clearer copies of the rules to be deleted are enclosed.

Also enclosed is the correspondence from EPA regarding the NSR and PSEL that were previously distributed at the Portland and Medford meetings.

Attachments

81.125.1387

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION X
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

REPLY TO ATTN OF: M/S 625

JUN 3 1981

William H. Young
Director
Department of Environmental Quality
P.O. Box 1760
Portland, OR 97207

Dear Bill:

We greatly appreciate the opportunity to have worked with your staff in the development of your new source review, bubble and banking programs. We feel that the DEQ has prepared an exceptional and innovative approach to managing air quality. With the correction of only three problems which are discussed in Enclosure 1, the May 15, 1981 draft regulations can be approved by EPA as revisions to the Oregon SIP. There are also several areas of your program which we feel are approvable but for which we will need to develop a demonstration of equivalency with the help of your staff. These are discussed in Enclosure 2. Finally, many aspects of the DEQ program have been designed to satisfy EPA requirements which have been or soon will be proposed for revision. Although final approval of the DEQ program may have to await final EPA action on these revisions, we intend to expeditiously approve your program, acting concurrently with the national changes and if necessary (and possible) proposing the national policy change as part of the Oregon approval action.

It is our understanding that the DEQ wishes EPA to approve the New Source Review Regulation (including Emission Reduction Credit Banking), the Plant Site Emission Limit Rules (including Alternative Emission Control) and the Air Contaminant Discharge Permit Rules so that nearly all State actions taken under those programs are recognized as federally enforceable upon issuance, thereby eliminating the current requirement for case-by-case SIP revisions. The only situations under these programs which would continue to require separate SIP submittals would be true SIP relaxations (including variances) and Alternative Emission Controls (bubbles) for sources with Plant Site Emission Limitations greater than 100 tons per year for TSP and SO_2. All other situations (netting or voluntary controls for new source review, offsets for nonattainment permits, banking emission reductions and most bubbles) will no longer need EPA approval as SIP revisions.

Our approval action will therefore be premised on the following:

1. Since EPA will no longer be individually approving each of these State actions which revise the SIP, we will need to receive information copies of each action in order to have available to EPA and the public the current SIP requirements for each source. We understand that the DEQ will promptly provide us with all Air Contaminant Discharge Permits which are issued or revised pursuant to the final EPA approved regulations.

2. Since EPA will no longer be providing a public comment period through the Federal Register on these actions, the state must provide the opportunity for comment. Although the Air Contaminant Discharge Permit rules do not contain such a requirement, we understand that the DEQ will continue to follow its Notice Policy (OAR 340-20-150) and provide an opportunity for comment on each permit.

3. The DEQ program must require as a condition of the PSD permit, compliance with all applicable SIP, NSPS and NESHAPs requirements. However, the DEQ regulation (OAR 340-20-235) only requires compliance with DEQ regulations and NSPS and NESHAPs programs for which the state has requested and received delegation. We understand that the DEQ will retain up-to-date delegation of all NSPS and NESHAPs and that if proposing to relax the federally approved SIP (i.e. new DEQ requirements would be less stringent than the current SIP) would continue to require compliance with the current SIP until such time that the relaxation is approved by EPA.

Again, I wish to compliment you and your staff for combining several complicated Clean Air Act programs into a unified and workable program. The resolution of those problem areas identified in Enclosure 1 will allow us to approve the regulations. Some additional comments on changes which we feel may strengthen the regulations, but are not necessary for our approval, are contained in Enclosure 3.

If you have any questions or desire any assistance in resolving our few remaining concerns, please do not hesitate to call me.

Sincerely,

Donald P. Dubois
Regional Administrator

ENCLOSURE 1

The following concerns must be adequately resolved in order for the regulations to be approved:

1. An important requirement for emission trades within and between sources (bubbles and offsets), is that the traded emissions have the same or reduced impact on ambient air quality. The DEQ rules require such in 340-20-315(3) and 340-20-260 but fail to include provisions as to how it is to be demonstrated. The DEQ rules must require appropriate dispersion modeling for TSP and SO_2 trades with a sophistication which is dependent upon the type and location of the trades involved.

2. Existing sources in nonattainment areas must employ, at a minimum, Reasonably Available Control Technology (RACT) for the nonattainment pollutants. To be approved, the state bubble rules (OAR 340-20-320) must require that the baseline emissions for bubbling in nonattainment areas be equivalent to RACT on a plant-wide basis.

3. New and modified major stationary sources may construct only if they either employ Best Available Control Technology (BACT) or meet the Lowest Achievable Emission Rate (LAER) whichever is applicable. However, sources may avoid these requirements by accepting voluntary permit limitations on their hours of operation or production rates or both provided that they will be required to retrofit BACT or LAER should they ever desire to relax the original limitations on hours of operation or production rates. The DEQ definition of "major modification" in OAR 340-20-225(14) requires such retrofit control. However, the DEQ has in OAR 340-20-250(3) inappropriately exempted these sources from BACT. The language in 340-20-250(3) must be changed so that it does not exempt from BACT requirements those sources which are proposing increases in hours of operation or production rates above levels which were used to avoid BACT requirements in the first place.

ENCLOSURE 2

Certain aspects of the DEQ program appear to be approvable. However, because the approaches differ substantially from the CAA and EPA programs, the equivalency of the DEQ program must be demonstrated or if so desired, the regulations could be revised.

1. The DEQ has chosen to adopt a substantially different approach to "baseline date," "baseline area" and "baseline concentration" for the PSD program. While EPA is amenable to different, but equivalent, approaches it is not clear that certain of the CAA requirements are adequately covered by the DEQ program. Specifically:

   a. The CAA defines baseline area as each area designated as attainment or unclassifiable under Section 107(d)(1)(D) and (E) and baseline date as the time of the first PSD application after August 7, 1977. The DEQ defines the "baseline area" as the entire state and the "baseline date" as January 1, 1978. Having a fixed date for the entire state rather than a different date for different areas can result in different effects on available growth increments. Whereas area and minor source growth after January 1, 1978 will consume increment under the DEQ program, it would be considered part of the baseline until a permit application is received under the CAA program. Conversely, any improvements in air quality after January 1, 1978 will make more growth increment available under the DEQ program while such improvements would lower the baseline under the EPA program. The DEQ must show that their program is equivalent or more stringent on an overall state basis.

   b. The CAA in Section 169(4) and EPA regulations in 40 CFR 51.24(b)(13) provide specific provisions for major stationary sources and major modifications which commenced construction before and after January 6, 1975, respectively. The allowable emissions from sources constructed before January 6, 1975 are to be included in the baseline if they were not in operation as of the baseline date. The actual emissions of sources constructed after January 6, 1975 are to be counted against the available increment. It appears that in OAR 340-20-225(2)(a) the DEQ may be inappropriately including in the baseline concentration, actual emissions from major sources or modifications which commenced construction after January 6, 1975 and which were in operation by January 1, 1978. Also, in 340-20-225(2)(b), the time period for "actual emission increases" is not specified: does it refer to only the units for which construction commenced before January 6, 1975 or all future units added to the

plant? Does it refer to the actual emissions as of initial start-up or does it include future increases in hours of operation or production rates? The DEQ must show that their regulation adequately covers such sources and modifications with respect to their impact on baseline concentrations and available increments.

2. EPA regulations in 40 CFR 51.18(j)(1)(vii) and 51.24(b)(3) define the term "net emissions increase," including how such netting is done and what emission decreases and increases are to be considered. The DEQ definition of "major modification" (OAR 240-20-225(14)) includes the same concept but does not include any specific provisions regarding the baseline for determining credit for emission decreases. The DEQ must show that procedures similar to those in OAR 340-20-255 "Baseline for Determining Credit for Offsets" and 340-20-260(4) will be used in evaluating "net significant emission rate increases" for major modifications.

3. EPA has defined a "major stationary source" as all pollutant emitting activities which belong to the same "Major Group" (i.e. same two-digit SIC code), are located on one or more contiguous properties, and are under the control of the same person. The DEQ has chosen not to include the SIC "Major Group" limitation. The effect of this is to include more emission points within the source, thereby possibly subjecting more new and modified sources to review. By providing a broader base for offsets, it may also exempt some modifications from review which would have been covered by EPA regulations. The DEQ must show that their overall program will be equivalent or more stringent with regard to the existing and potential source configurations in Oregon.

4. EPA regulations in 40 CFR 51.24(i)(4)(iii) and Appendix S, Section IV.B., provide certain exemptions for portable facilities which are major stationary sources subject to PSD and nonattainment area permit requirements. The exemptions in OAR 340-20-250(2) for the DEQ new source review regulations are broader that allowed by EPA requirements. The DEQ must show that the remaining new source review requirements, combined with applicable requirements of their Air Contaminant Discharge Permit Rules, are equivalent to EPA's requirements.

5. EPA regulations in 40 CFR 51.18(j)(1)(vii)(f) and 51.24(b)(3)(vii) allow a reasonable shakedown period, not to exceed 180 days, when both an original unit and replacement unit can operate simultaneously. The DEQ rule in OAR 340-20-260(4) provides no time limit on the shakedown period. The DEQ must show that their restriction on no net emissions increase during the shakedown period is equivalent or more stringent than the EPA requirement.

ENCLOSURE 3

The following additional comments and suggestions are provided for your information and consideration.

1. The definitions of "significant emission rate" (OAR 340-20-225(22)) and "significant air quality impact" (OAR 340-20-225(23)) should indicate that the regulated pollutant is ozone but that "volatile organic compound" emissions are used as a measurement of significance.

2. The public participation requirements (OAR 340-20-230(3)(b)(B)) should be revised to indicate that the information will be available in the region where the source would be constructed or at least at the nearest DEQ office.

3. The first paragraph of the PSD program (OAR 340-20-245) should be expanded to better clarify pollutant applicability. For example, PSD applies to a major stationary source or major modification for each pollutant emitted in significant amounts for which the area is designated attainment or unclassifiable. Also, it is not clear whether both PSD and Part D permit requirements apply for the nonattainment pollutant in a nonattainment area if the source is subject to PSD for another pollutant.

4. The provision which allows the DEQ to accept less than one year of pre-application ambient monitoring (OAR 340-20-245(5)(a)) should be revised to specify that it shall be for no less than four (4) months.

5. The provisions for sources impacting Class I areas (OAR 340-20-245(7)) should be revised to indicate that the DEQ will forward to EPA a copy of the permit application and subsequent notice of each action taken with regard to such application.

6. The provision allowing precursor offsets (340-20-260(3)) should be expanded and clarified as to which pollutants are covered and what will be required for the technical demonstration of net air quality benefit in the area impacted by the proposed new source or modification.

7. The DEQ has two different definitions of the term "source": in OAR 340-20-225(24) for the purposes of the New Source Review Regulation and in Table A, OAR 340-20-155 for the purposes of the Air Contaminant Discharge Permit (ACDP) program. It is not clear which definition of the term source is to be used in the Plant Site Emission Limit (PSEL) Rules. It appears that the DEQ intends to use the broader definition in OAR 340-20-225(24) even though the PSEL is incorporated into the ACDP.

8. All banked emission credits must be treated as though they are still being emitted when conducting the air quality reviews for

new or modified sources. The DEQ regulations should include such a provision.

9. The banking rule requires that sources notify the DEQ when emission reduction credits are transferred but does not require prior DEQ approval of each transfer (OAR 340-20-265(10)). The regulation should be clarified to indicate that the use of emission reduction credits involving netting, bubbles or offset will require specific DEQ approval.

10. The banking rule does not include any discussion with regard to the use of banked emission reduction credits. It should be clear that transactions for bubbles or offsets will be evaluated in terms of their ambient impact, not just on a ton-for-ton basis. In effect, an emission reduction credit is not only a quantity of tons, but includes the ambient impact characteristics of those emissions as well.

11. The DEQ should keep a formal registry of banking transactions. EPA feels that this is the only way to keep a good handle on the use of banked credits as well as providing information to sources in search of offsets.

12. The Oregon ambient air quality standard for lead (OAR 340-31-055) is not as stringent as the NAAQS and should be revised.

13. The "Restrictions on Area Classification" (OAR 340-31-120(3)(a)) are not consistent with the CAA with regard to Class I or II designation of certain federal lands. All national monuments, primitive areas, preserves, recreational areas, wild and scenic rivers, wildlife refuges and lakeshores or seashores which exceed 10,000 acres in size may only be redesignated Class I or II regardless of whether they were created before or after August 7, 1977. Although EPA can approve the DEQ provision at this time since we are unaware of any areas which could be adversely affected, the provision should be revised before it would inappropriately allow Class III designation for lands which the CAA restricts to Class I or II.

14. The Air Contaminant Discharge Permit Rules (OAR 340-20-140 to 185) do not include any criteria which must be met to receive a permit (e.g. compliance with applicable emission limitations, not cause or contribute to NAAQS violations, etc.) nor does it include any administrative procedures for issuing permits. The DEQ should submit the "duly adopted procedures" referenced in OAR 340-20-170 for inclusion in the SIP.

15. EPA has not yet promulgated regulations to implement Section 123 of the CAA. As such, the terms "good engineering practice stack height" and "dispersion technique" have not been defined for the purposes of SIP requirements. EPA, therefore, will not be acting (neither approval or disapproval) on the DEQ's definitions of those terms in OAR 340-20-225.

Lloyd Kostow DEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

DATE: APR 17 1981

SUBJECT: Proposed Oregon New Source and Operating Permit Program

FROM: Donald P. Dubois
Regional Administrator

TO: Walter C. Barber
Acting Administrator

The Oregon Department of Environmental Quality (DEQ) has prepared a unified permit program for new, modified, and existing sources. I've attached a copy for your information. The program combines PSD, Part D, pre-construction review, operating permits, permit fees, bubble, and banking programs with an innovative approach for PSD increment and RFP management (a plant-site emission limitation). It is implemented through a single permit, the Air Contaminant Discharge Permit, which requires a showing that the source will satisfy applicable requirements. I am asking that you give this program serious consideration as a model regulatory reform. I feel this can and should be approved so as to eliminate the need for Oregon to submit State-issued operating, bubble, banking and trading permits as individual SIP revisions.

We feel that this is an exceptional program. Both Regional and Headquarters staff believe the State regulations (with a few minor corrections) are approvable if the Air Contaminant Discharge Permits are federally enforceable. The DEQ estimates that the program will involve approximately 2000 individual permits of which approximately 150 will be renewed, with changes, annually. The logistics of the SIP revision process, at both the state and federal levels, makes the implementation of their program infeasible if each permit must receive EPA approval in order to be considered federally enforceable. The benefits from successful implementation of this program are such that EPA should make every effort to approve it in a manner similar to the New Jersey VOC bubble rule so that each permit would be federally enforceable without the need for case-by-case SIP revisions.

We believe that there is a sound basis for such an approach. State-issued new source permits are already considered federally enforceable. Our approval of the New Jersey VOC bubble rule established a mechanism to make state-issued operating permits federally enforceable. Since EPA will be relying on the State's technical ability and judgement to ensure that NAAQS, PSD increments and RFP are attained and maintained through new source permitting programs, we can also rely on the State to operate acceptable bubble, banking, and trading programs. Finally, our approval of the

program will not affect our responsibility to ensure that the approved SIP meets all Clean Air Act requirements. EPA must initially approve SIP emission limitations which are adequate to attain and maintain the NAAQS and PSD increments. Should any permit, or the State's management of the program, cause the SIP to become deficient, a SIP (or permit) revision pursuant to the requirements of Section 110(a)(2)(H) would remedy the situation.

I need to inform the DEQ before their April 24, 1981 public hearing whether or not their program can be approved in a manner which will eliminate the need for case-by-case SIP revisions. Please let me know no later than April 22 if there are any serious reasons why we should not proceed with such an approval action.

If you have any questions on this, please do not hesitate to contact me. David Bray of my Air Programs Branch staff is also available at FTS 8-399-1125 to answer any technical questions your staff may have.

Donald P. Dubois

Attachment

cc: Richard D. Wilson, OGE
Ronald C. Campbell, OAQPS
Michele Beigel Corash, OGC
Michael Levin, RRS
Michael Trutna, CPDD

VICTOR ATIYEH
GOVERNOR

Environmental Quality Commission

Mailing Address: BOX 1760, PORTLAND, OR 97207
522 SOUTHWEST 5th AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

MEMORANDUM

To: Environmental Quality Commission

From: Director

Subject: Agenda Item No. N, June 5, 1981, EQC Meeting

Consideration of Adopting Proposed Plant Site Emission Limit and New Source Review Rules and Proposed Revocation of the Following Existing Rules:

a) Special Permit Requirements for Source Locating In or Near Nonattainment Areas, OAR 340-20-190 through 198.

b) Criteria for Approval of New Sources in the Portland Special AQMA, OAR 340-32-005 through 025.

c) Specific Air Pollution Control Rules for the Medford-Ashland AQMA, OAR 340-30-60 and 110.

d) Prevention of Significant Deterioration, OAR 340-31-105, definitions 1 through 11, 13 and 14, and 17 through 22; 340-31-125; 340-31-135 through 195.

Background

On April 24, 1981, the Commission held a public hearing concerning proposed revisions to the Plant Site Emission Limit Rules and the New Source Review Rules. Fifteen people presented oral testimony at the hearing and many of these people also submitted written comments. A brief summary of the testimony outlining the major issues was provided to the Commission in a memorandum dated May 4, 1981. Subsequently members of the Commission requested that the staff address specific questions concerning points raised in the testimony.

Alternatives and Evaluation

The issues receiving the most comment and which involve policy questions are discussed below. Responses to questions raised by Commission members are specifically identified.

Issue 1

Plant Site Emission Limits should not be based on actual emissions as proposed but rather on plant design capacity. This comment was made by several commentors and a member of the Commission asked for a discussion of this point.

The proposed rules would require that Plant Site Emission Limits be based on actual emissions during the 1977-1978 baseline period or another period if it is more representative of normal source operation. Existing permit limits may be used for the Plant Site Limit if they are within 10 percent of the actual emissions. Plant Site Emission Limits could be established at higher levels to accommodate needed production increases up to capacity if it is shown that no air quality standard or Prevention of Significant Deterioration (PSD) increment would be exceeded in an attainment area or that a growth increment or offset is provided in a nonattainment area. The advantages of this approach are the following:

A. In attainment areas the Plant Site Emission Limit, as proposed, would be consistent with the Prevention of Significant Deterioration baseline requirements of the Clean Air Act and EPA rules. Using plant capacity in attainment areas would render the Plant Site Emission Limit useless for administering a PSD increment tracking and allocation system because the Federal regulations clearly require a baseline of actual emissions in the baseline year.

   A Plant Site Emission Limit based on plant capacity or some level significantly above actual emissions could also allow PSD increments or air quality standards to be exceeded when emissions increased without the Department, the affected community, or even the source knowing that such an event had occurred. This approach would clearly be illegal under the Clean Air Act and EPA rules.

B. In nonattainment areas, the Plant Site Emission Limits, as proposed, would be consistent with the SIP control strategy data bases. Establishing Plant Site Emission Limits based on plant capacity would require that all of the SIPs be redone since they are based on actual emissions from point sources. If point sources are allowed emissions greater than the actual emissions, further control strategies would be required to compensate for the potential increase in emissions above the baseline. Such additional control strategies would likely be very costly and may not even be available in airsheds such as Medford which are already overloaded. An emission allowance higher than actual emissions could allow already unacceptable air quality conditions to worsen.

C. The Plant Site Emission Limit Rule, as proposed, establishes a baseline of actual emissions for administering "offset", "banking", and "bubbling" programs which is compatible with EPA requirements. EPA requires that these programs be established on the same basis as the SIP control strategies. Establishing Plant Site Emission Limits on a plant capacity basis would render these limits useless for the

purpose of administering offset, banking, and bubbling programs.

D. A Plant Site Emission Limit based on actual emissions clearly and specifically defines the allowable emissions for each permit holder which are within airshed capacity and facilitates tracking of progress toward attainment and maintenance of standards. This requirement is an essential step in developing an effective air management program, just as it was when waste discharge limits were set for Oregon river basins years ago. Establishing Plant Site Emission Limits on a plant design capacity basis can be subjective and may not be definable or verifiable, particularly in cases involving fuel switching or increased hours of operation.

E. The proposed rule would not prevent a source from receiving an increase in the Plant Site Emission Limit at the time the limits are initially established or at a future time provided that airshed capacity is available.

Alternatives:

An alternative to Plant Site Emission Limits based on actual emissions or plant capacity would be to have no Plant Site Emission Limits. This approach would have the following disadvantages:

A. Existing permitted emission levels would allow increases in emissions from the baseline levels which could cause exceedances of air quality standards or PSD increments. Such increases could nullify control strategies in nonattainment areas.

B. No mechanism for administering offset, banking and bubble programs would be available.

Another alternative would be to follow the suggestion of one commentor that a 20 percent operating margin should be added on top of the actual emission baseline when establishing Plant Site Emission Limits. This approach has the following disadvantages:

This alternative has all of the disadvantages that setting Plant Site Emission Limits on a plant capacity basis would have. The SIPs would have to be redone on a higher baseline and in some cases air quality standards or PSD increments could be exceeded without the source or the Department knowing.

Discussion:

The proposed rules are intended to provide flexibility in establishing Plant Site Emission Limits. A baseline year prior to the baseline period can be used for establishing actual emission rates if it is more representative of normal source operation. Existing permit limits can be used if they are within 10 percent of actual emissions. If PSD increments, growth margins, or offsets are available, Plant Site Emission Limits can be set higher than the actual emissions. Net emission increases above the

actual emission baseline which are less than the significant emission rate levels would be allowed without air quality analysis or offsets. Redoing the SIP control strategies or providing for priority allocation of growth margins for sources operating below capacity in the baseline period does not seem practical or necessary. In order to further clarify the intent of the rules and to satisfy the comments of several of the commentors, the following changes are proposed.

OAR 340-20-305 Definitions

Definition 1 "Actual Emissions" section a: Delete the sentence ["The Department shall allow the use of a different period upon a determination that it is more representative of normal source operation".] and place in definition 3.

Definition 3 "Baseline Period": Replace the present definition with the following: "Baseline Period" means either calendar year 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.

OAR 340-20-310 "Criteria for Establishing Plant Site Emission Limits" Section 1. For existing sources, PSELs shall be based on the baseline emission rate for a particular pollutant at a source and may be adjusted upward or downward pursuant to Department Rules.

If an applicant requests that the Plant Site Emission Limit be established at a rate higher than the baseline emission rate, the applicant shall demonstrate that:

a. The requested increase is less than the significant emission rate increase defined in OAR 340-20-225(22) or,

b. Provide an assessment of the air quality impact pursuant to procedures specified in OAR 340-20-240 to 245. A demonstration that no air quality standard or PSD increment will be violated in an attainment area or that a growth increment or offset is available in a nonattainment area shall be sufficient to allow an increase in the Plant Site Emission Limit to an amount not greater than the plant's demonstrated need to emit as long as no physical modification of an emissions unit is involved.

c. Increases above baseline emission rates shall be subject to public notice and opportunity for public hearing pursuant to the Department's permit requirements.

OAR 340-20-320 "Temporary PSD Increment Allocation" Delete Section c. ["No observable or measurable impact on air quality is created."]

Issue 2

The major new source cutoff criteria for nonattainment areas should be higher than the "significant emission rate" level. Several commentors suggested higher levels and a Commission member asked if this suggestion had merit.

The proposed rule establishes the cutoff for both major new sources and major modifications in nonattainment areas and areas adjacent to nonattainment areas at the "significant emission rate" level (25 tons per year for particulate and 40 tons per year for VOC). EPA would allow 100 tons per year for new sources but would still require significant emission rate levels for modifications. The proposed rule establishes cutoffs for attainment areas at the same level as EPA.

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

A. 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 modifications by court interpretations even though these different cutoffs make no technical sense.

B. By providing the same cutoff criteria for new sources and modifications, equity would be provided for both new and existing sources.

C. 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.

D. It is estimated that, on the average, two additional new sources per year will be subject to the proposed criteria over the number that would be subject to the 100 ton/year EPA criteria. These two additional sources will not add significantly to the Department's workload.

Alternatives:

The cutoff criteria for new sources could be raised to 50 tons/year or 100 tons/year for new sources in nonattainment areas. The cutoff could not be raised for modifications without becoming less stringent than EPA requirements. The disadvantages of this approach are the following:

A. Some sources which have a significant impact would escape review.

B. The more stringent cutoffs for modifications could put existing sources at a disadvantage.

Discussion:

The Department believes that the proposed cutoff criteria provide equity and are necessary for the protection of Oregon airsheds.

Issue 3:

The Emission Reduction Credit Banking rules are too restrictive and should be liberalized by (a) allowing shutdowns and curtailments to be bankable, (b) eliminating the discounting provisions, and (c) eliminating the 10 year maximum banking period. Several commentors discussed these points and a Commission member asked for an evaluation of these issues.

The proposed banking rule does not allow long-term banking of shutdowns and curtailments. Shutdowns and curtailments can be used within one year for contemporaneous offsets, however. The proposed rule has provisions which require discounting of banked credits when new rules are adopted and also allows the Commission to discount banked credits if no other strategies for attainment are available. The maximum banking period is 10 years unless extended by the Commission.

The advantages of the proposed banking rule are the following:

A. The proposed banking rule is a limited program which allows the Department to move cautiously into the banking area without establishing unlimited airshed "rights" that cannot be recovered if air quality worsens. Totally eliminating the discounting provisions would establish permanent air pollution "rights" for those sources that participate in the bank.

B. Source shutdowns and curtailments are not bankable under the proposed rules. It was felt that the Department should not promote the permanent shutdown or curtailment of facilities unless those offsets are provided to another proposed project within one year. The premature closure of a facility may accrue a valuable banking credit to the owner without any investment in equipment to control emissions by the owner and without returning any economic benefit to the community.

C. The proposed rules would encourage those industries that have growth plans to improve technology or move to more efficient processes in order to establish emission reductions for banking. Such industries would have a significant degree of certainty that those banked reductions could be used for future plant expansion.

Alternatives:

The banking rules could be made less restrictive by allowing shutdowns and curtailments to be bankable, eliminating the discounting provisions, and/or eliminating the 10 year maximum banking period. The disadvantages of this approach would be the following:

A. The Department and Commission would lose control of the banking program such that permanent air pollution rights are established.

B. Without the discounting provision those emission reductions needed to demonstrate progress toward attainment and maintenance of standards

could be banked and used to offset emission increases at any time.

C. The 10 year limit on banking establishes a reasonable period of time for a source to utilize the banking credit after which time the credit would revert to a permanent improvement in air quality. The Commission could extend the 10 year period if a source had a reason for requesting an extension.

D. If these provisions are relaxed the banking rule may be less stringent than EPA guidelines and could result in disapproval by EPA.

Discussion:

Many commentors disapproved of the provision in the banking rule (provision 6 of OAR 340-20-265) which would allow the Commission to discount banked emissions when no other strategies are available. The Department agrees that this provision may provide a needless disincentive and therefore to satisfy these comments it is proposed that this provision be replaced by a moratorium on withdrawals from the bank as follows.

OAR 340-20-265(6) The Commission may declare a moratorium on withdrawals of emission reduction credits from the bank if it is established that reasonable further progress toward attainment of air quality standards is not being achieved and no other control strategy is available.

Issue 4

Several commentors contended that the Alternative Emission Controls provision (bubble) should allow bubbling of BACT, LAER, NSPS, and NESHAPS requirements.

The Proposed rules would not allow relaxation of BACT, LAER, NSPS, or NESHAPS limitations which were established in a previously issued new source permit. The New Source Review rule does allow future modifications of existing sources to escape BACT or LAER where no significant increase in emissions occurs at the plant site. The advantages of this approach are the following:

A. This provision is consistent with EPA guidance on bubbling. Relaxation of this requirement would risk EPA disapproval.

B. Only the relatively few sources that were subject to BACT, LAER, NSPS, or NESHAPS would be affected by this provision.

C. The technology forcing aspect of the BACT and LAER provisions would not be relaxed for those sources that received permits under those provisions in the past.

D. The NSPS and NESHAPS requirements are specifically required by the Clean Air Act and cannot be relaxed. It would not be desirable to allow a new plant to be constructed without meeting these requirements or for an existing plant to bubble out of such requirements.

Issue 5

One commentor testified that exemption from offsets should not be allowed for resources recovery facilities.

The proposed rules provide that Resource Recovery Units may be granted an exemption provided that all offsets that are reasonably available have been obtained. The advantage of this approach is that this provision may help to recover valuable material and energy resources. This exemption is allowed by EPA rules.

Issue 6

One commentor testified that the required emission offset ratio should be 1:1.3 rather than 1:1.

The proposed rules require equivalent or greater emission offsets such that a net air quality benefit is provided. The advantage of this approach is that the requirement of net air quality benefit will in most cases result in a greater than 1:1 offset ratio which is appropriate for the particular pollutant and geographical area.

Issue 7

Several commentors testified that the requirement for fine particulate to be offset with fine particulate is not appropriate since we have a Total Suspended Particulate (TSP) standard.

It is widely agreed that the present TSP standard is not adequate to protect against adverse health effects. The proposed rule requires that respirable particulate emissions be offset with respirable particulate. The advantage of this approach is that large particulate could not be traded for respirable particulate, thereby preventing increases in the level of pollutant that actually causes adverse health effects.

Issue 8

Several commentors testified that the reserved control strategies to protect the Portland Ozone SIP are not needed.

The proposed rules reserve six control strategies to prevent them from being used as offsets until the time that Portland Ozone SIP is completed.

This provision may not be justifiable in light of recent calculations concerning the 0.12 ppm ozone standard attainment strategies. Also provision 5 of the banking rule (OAR 340-20-265) provides for discounting of banked emissions if new control strategies are adopted. If provision 5 is adopted as presently worded, then OAR 340-20-280 Reserved Control Strategies should be deleted.

Issue 9

One commentor testified that separate Plant Site Emission Limits should not

be established for combustion sources, process sources, and fugitive sources as allowed in OAR 340-20-310(3). A Commission member also questioned this provision.

This provision is designed to facilitate emission calculations for dissimilar emission units within a particular source and to speed up permit processing for such permit modifications as fuel switching. This provision would also make it easier for the Department to manage bubbling of dissimilar pollutant emissions. This provision does not limit bubbling or offsetting within the total plant site.

Issue 10

One commentor testified that the rules should provide flexibility so that other agencies such as LRAPA can develop growth management strategies which could be more stringent.

The proposed rules do not limit the authority of local jurisdictions to adopt additional, more stringent measures.

Issue 11

One commentor testified that PGE turbines had zero operation during the baseline period.

The proposed rule provides that PSD increments and the emission rates associated with their usage can be allocated at the time the Plant Site Emission Limit is negotiated. The Plant Site Emission Limits have already been established for these turbines taking into account PSD increment consumption. The proposed rules would require no changes to these existing limits.

Issue 12

One commentor testified that the baseline concentration is defined such that PGE-Boardman would fall into the increment rather than the baseline contrary to a 1975 letter received by PGE from EPA stating that the facility would fall into the baseline.

The proposed rules follow EPA's baseline criteria. The 1977 Clean Air Act Amendments and subsequent court rulings have altered the baseline criteria since the 1975 letter. It is the understanding of the Department from discussions with EPA that PGE's 1975 letter may no longer be valid. A relaxation of the proposed criteria would mean that the State rule would be less stringent than EPA requirements and therefore might be disapproved by EPA. PGE should contact EPA directly to resolve this matter.

Issue 13

Several commentors requested clarification of the fact that the Lowest Achievable Emission Rate (LAER) applies only to nonattainment pollutants. It is therefore proposed that the language "... for each nonattainment

pollutant" be added to the end of the first sentence of OAR 340-20-240 Section 1.

Issue 14

The Jackson County Commissioners commented that a VOC growth increment for Medford should not be adopted until the question of the 0.08 ppm State ozone standard is resolved.

The VOC growth increment was adopted by the Commission in 1979 as part of the Medford ozone SIP which is based on the 0.12 ppm Federal standard. Since the Department was directed by the Commission to develop SIPs based on the 0.12 ppm standard, it seems appropriate to let the present growth increment stand until such time as a new state strategy is developed to achieve the 0.08 ppm ozone standard.

Issue 15

Several commentors contended that the 30 kilometer buffer zone around ozone nonattainment areas is not appropriate and should be replaced by modeling to measure significant ozone impact.

Unfortunately, there are no acceptable procedures for modeling VOC emissions from point sources to predict ozone impacts. The Department therefore recommends that the 30 kilometer buffer ozone concept be retained unless an applicant can demonstrate through some other means that a proposed source would have no impact in the nonattainment area.

Issue 16

One commentor contended that the requirements for Additional Impact Analysis (OAR 340-20-245 section 6) is excessive and unworkable.

This provision is required by EPA and was taken verbatim from the EPA regulations.

Issue 17

One commentor contended that the requirement for short-term, seasonal, and yearly time periods for calculating offsets is overly stringent.

This provision is included in the Net Air Quality Benefit section (OAR 340-20-260 section 2) to insure that the offsets are appropriate to both the short-term and long-term air quality standards.

Issue 18

One commentor contended that the requirement for Statewide compliance of sources owned or operated by an applicant in a nonattainment area (OAR 340-20-240 section 2) is unnecessary.

This provision is specifically required by the Clean Air Act and is not optional for the State.

Issue 19

One commentor wrote that the definition of "Baseline Concentration" (OAR 340-20-225 definition 2) should be consistent with the definition of "Baseline Emissions".

The definition of baseline concentration must be specific and well defined to establish a baseline for performing air quality analysis. Baseline emissions is defined much more broadly to accommodate production variations. It is not necessary for baseline concentration and baseline emissions to be defined on precisely the same time frame. This approach is consistent with EPA definitions.

Issue 20

One commentor contended that the setting of significant emission rates for pollutants not listed in Table 1 of OAR 340-20-225 definition 22 should be subject to rulemaking and opportunity for public and technical review.

The cases where pollutants other than those listed in Table 1 are emitted will be associated with specific permit applications under review by the Department. The public notice and opportunity for hearing procedures of the permit regulations should provide adequate opportunity for review by interested parties. If a separate rulemaking process is required the permit application under consideration would be significantly and unnecessarily delayed.

Issue 21

One commentor contended that the 10 day period allowed for applicants to submit responses made by the public after the close of the public comment period is not adequate and should be changed to 10 "working" days (OAR 340-20-230(3)(F)).

It is proposed that the word working be inserted with the understanding that permit issuance will be delayed by that additional amount of time.

Issue 22

One commentor contended that emissions from the construction phase of a new source or modification should be exempt from all requirements including BACT and LAER.

The proposed rule would exempt emissions from the construction phase of a project from all requirements except BACT and LAER (OAR 340-20-250(2)). Generally, construction emissions should be small and temporary. However, in the case of major projects, construction emissions could involve extensive dust problems or the installation of temporary sources. Also, such projects could continue for a number of years. Such construction sources should be subject to BACT or LAER depending on whether the area is attainment or nonattainment.

Issue 23

One commentor contended that the period allowed for "contemporaneous" offsets should be increased from one year to five years (OAR 340-20-260(4)). Several other commentors stated that the meaning of the term "permanent" shutdown or curtailment is not clearly defined and that some plant modifications may be in the planning stages for more than one year. A Commission member asked for a justification for holding the contemporaneous period to one year.

The proposed rules allow one year for contemporaneous offsets and allow certain other emission reductions to be banked for ten years. It is not necessary to have a five year contemporaneous period in addition to the banking provision. The Department proposes to remedy the problem of planned expansions which extend over periods longer than one year by adding the following language at the end of OAR 340-20-265(4). The one year limitation for contemporaneous offsets shall not be applicable to those shutdowns or curtailments which are to be used as internal offsets within a plant as part of a specific plan. Such a plan for use of internal offsets shall be submitted to the Department and receive written approval within one year of the permanent shutdown or curtailment.

Issue 24

Several commentors testified that there are no defined limits for air conveying systems. A Commission member asked why there are no such limits.

The Plant Site Emission Limit Rule, as proposed, will allow the Department to establish specific limits for air conveying systems as part of the total plant site emission limit. It has been difficult in the past to write rules applying to air conveying systems because of the wide range of different uses and operating conditions. The Department is continuing to address this problem as part of the Medford SIP and intends to consider revisions to the present air conveying system rules.

Issue 25

One commentor stated that the word "demonstration" which is used in OAR 340-20-260 Net Air Quality Benefit was not defined. A Commission member asked if this term was defined elsewhere in the rules or by past practice.

The term "demonstration" is used in the rules in the context of a "demonstration that standards are not violated". The term is simply intended to have the dictionary definition of "proof". There are many ways of providing such demonstrations including modeling, engineering calculations, or other logical and reasonable arguments.

Summation

1. A revised New Source Review rule must be adopted in order for Oregon's State Implementation Plans to be fully approved by EPA.

2. A revised rule for Prevention of Significant Deterioration must be adopted in order for Oregon to receive delegation of that program from EPA.

3. A revised Plant Site Emission Limit rule must be adopted to adequately define the basis for setting permit limits and to provide for adequate management of airshed capacity in both attainment and nonattainment areas.

4. The Department has reviewed the testimony received during the public comment period and at the April 24, 1981, public hearing. Several key policy questions are at issue that have great bearing on the ability of the Department to effectively manage airshed capacity, implement desirable regulatory reforms, and keep the overall ownership and control of airshed rights within the public sector. The Department has reached the following conclusions and recommendations:

   a. Plant Site Emission Limits must be based on an actual emissions baseline adjusted upward or downward in accordance with specific criteria in order to provide for adequate administration of nonattainment control strategies, PSD increment consumption and banking, bubbling, and offset programs.

   b. Basing Plant Site Emission Limits on plant capacity could allow sources to unknowingly and illegally exceed PSD increments or air quality standards.

   c. Basing Plant Site Emission Limits on plant capacity would require that the nonattainment SIPs be redone on a higher baseline and that more control strategies be added.

   d. The proposed Plant Site Emission Limit rule allows considerable flexibility for sources to obtain higher emission limits at the time Plant Site Emision Limits are initially set if the airshed capacity is available or can be made available through offsets.

   e. The cutoff criteria for major new sources and modifications locating in or adjacent to nonattainment areas should be the significant emission rate criteria. Any higher level would allow significant impact on the nonattainment areas.

   f. The proposed banking rule, with the modifications included in response to comments, provides a means for sources to reserve offset credits for future growth without permanently giving away the public's airshed rights. Several rule changes were made in response to comments including adding a provision allowing for submittal of shutdown or curtailment plans extending beyond the one year period and changing the uniform discounting requirement to a moratorium.

   g. Several other minor proposed revisions to the draft rules have been made in response to comments and are shown in the attachments for the Commission's consideration.

Director's Recommendation

I recommend that the Commission consider the comments received at the public hearing and during the comment period and consider adopting the proposed rules and revoking the existing rules for Plant Site Emission Limits and New Source Review.

Bill

William H. Young

Attachments 1. Proposed Rules for Plant Site Emission Limits
2. Proposed Rules for New Source Review
3. Existing Rules Proposed for Revocation
4. Notice of Public Hearing and Statement of Need for Rulemaking

L.Kostow:ib
(503) 229-5186
May 18, 1981
AI1077

DRAFT PLANT SITE EMISSION LIMIT RULES

340-20-300 Requirement for Plant Site Emission Limits

Plant site emission limits (PSEL) shall be incorporated in all Air Contaminant Discharge Permits except minimal source permits and special letter permits as a means of managing airshed capacity. All sources subject to regular permit requirements shall be subject to PSELs for all Federal and State regulated pollutants. PSELs will be incorporated in permits when permits are renewed, modified, or newly issued.

The emissions limits established by PSELs shall provide the basis for:

1. Assuring reasonable further progress toward attaining compliance with ambient air standards.

2. Assuring that compliance with ambient air standards and Prevention of Significant Deterioration increments are being maintained.

3. Administering offset, banking and bubble programs.

4. Establishing the baseline for tracking consumption of Prevention of Significant Deterioration Increments.

340-20-305 Definitions

1. "Actual Emissions" means the mass rate of emissions of a pollutant from an emissions source.

   a. In general, actual emission as of the baseline period shall equal the average rate at which the source actually emitted the pollutant during a baseline period and which is representative of normal source operation. [The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation.] Actual emissions shall be calculated using the source's actual operating hours, production rates and types of materials processed, stored, or combusted during the selected time period.

   b. The Department may presume that existing source-specific permitted mass emissions for the source are equivalent to the actual emissions of the source if they are within 10% of the calculated actual emissions.

   c. For any newly permitted emission source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source.

2. "Baseline Emission Rate" means the average actual emission rate during the baseline period. Baseline emission rate shall not include increases due to voluntary fuel switches or increased hours of operation that have occurred after the baseline period.

3. "Baseline Period" means <u>either</u> [the average of] calendar years 1977 <u>or</u> [and] 1978. <u>The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.</u>

4. "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.

5. "Plant Site Emission Limit (PSEL)" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.

<u>340-20-310 Criteria for Establishing Plant Site Emission Limits</u>

1. For existing sources, PSELs shall be based on the baseline emission rate for a particular pollutant at a source and may be adjusted upward or downward pursuant to Department Rules. [Applications to increase PSELs above the baseline

emission rate, may be approved only if PSD increments, growth increments, or emission offsets are available.

When the requested emission increase is greater than the significant emission rate specified in OAR 340-20-225(22), the applicant shall provide an assessment of the air quality impact pursuant to procedures specified in OAR 340-20-240 to 2451.

If an applicant requests that the Plant Site Emission Limit be established at a rate higher that the baseline emission rate, the applicant shall demonstrate that:

a. The requested increase is less that the significant emission rate increase defined in OAR 340-20-225(22) or,

b. Provide an assessment of the air quality impact pursuant to procedures specified in OAR 340-20-240 to 245. A demonstration that no air quality standard or PSD increment will be violated in an attainment area or that a growth increment or offset is available in a nonattainment area shall be sufficient to allow an increase in the Plant Site Emission Limit to an amount not greater than the plant's demonstrated need to emit as long as no physical modification of an emissions unit is involved.

c. Increases above baseline emission rates shall be subject

to public notice and opportunity for public hearing pursuant to the Department's permit requirements.

2. PSELs shall be established on at least an annual emission basis and a short term period emission basis that is compatible with source operation and air quality standards.

3. PSELs may be established separately within a particular source for process emissions, combustion emissions, and fugitive emissions.

4. Documentation of PSEL calculations shall be available to the permittee.

5. For new sources, PSELs shall be based on application of applicable control equipment requirements and projected operating conditions.

6. PSELs shall not allow emissions in excess of those allowed by any applicable Federal or State regulation or by any specific permit condition unless specific provisions of 340-20-315 are met.

7. PSELs may be changed pursuant to Department rules when:

   a. Errors are found or better data is available for calculating PSELs,

b. More stringent control is required by a rule adopted by the Environmental Quality Commission,

c. An application is made for a permit modification pursuant to the Air Contaminant Discharge Permit requirements and the New Source Review requirements and approval can be granted based on growth increments, offsets, or available Prevention of Significant Deterioration increments.

d. The Department finds it necessary to initiate modifications of a permit pursuant to OAR 340-14-040.

340-20-315 Alternative Emission Controls (Bubble)

Alternative emission controls may be approved for use within a plant site such that specific mass emission limit rules are exceeded provided that:

1. Such alternatives are not specifically prohibited by a permit condition.

2. Net emissions for each pollutant are not increased above the Plant Site Emission Limit.

3. The net air quality impact is not increased.

4. No other pollutants including malodorous, toxic or hazardous pollutants are substituted.

5. Best Available Control Technology (BACT) and Lowest Achievable Emission Rate (LAER) where required by a previously issued permit and New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP where required, are not relaxed.

6. Specific mass emission limits are established for each emission unit involved such that compliance with the PSEL can be readily determined.

7. Application is made for a permit modification and such modification is approved by the Department.

340-20-320 Temporary PSD Increment Allocation

PSELs may include a temporary or time-limited allocation against an otherwise unused PSD increment in order to accommodate voluntary fuel switching or other cost or energy saving proposals provided it is demonstrated to the Department that:

a. No ambient air quality standard is exceeded.

b. No applicable PSD increment is exceeded.

[c. No observable or measurable detrimental impact on air quality is created.]

c. [d.] No nuisance condition is created.

d. [e.] The applicant's proposed and approved objective continues to be realized.

Such temporary allocation of a PSD increment must be set forth in a specific permit condition issued pursuant to the Department's Notice and Permit Issuance or Modification Procedures.

Such temporary allocations must be specifically time limited and may be recalled under specified notice conditions.

Draft New Source Review

Regulation

Air Quality Division

Department of Environmental Quality

May 15, 1981

Introduction-

The purpose of this proposed regulation is to update the New Source Review provisions of the State Implementation Plan. In addition, the new source requirements of the Prevention of Significant Deterioration provisions have been incorporated into this regulation.

AI601

Index

AI601

340-20-220 Applicability

1. No owner or operator shall begin construction of a major source or a major modification of an air contaminant source without having received an Air Contaminant Discharge Permit from the Department of Environmental Quality and having satisfied OAR 340-20-230 through 280 of these Rules.

2. Owners or operators of proposed non-major sources or non-major modifications are not subject to these New Source Review rules. Such owners or operators are subject to other Department rules including Highest and Best Practicable Treatment and Control Required (OAR 340-20-001), Notice of Construction and Approval of Plans (OAR 340-20-020 to 032), Air Contaminant Discharge Permits (OAR 340-20-140 to 185), Emission Standards for Hazardous Air Contaminants (OAR 340-25-450 to 480), and Standards of Performance for New Stationary Sources (OAR 340-25-505 to 545).

340-20-225 Definitions

1. "Actual emissions" means the mass rate of emissions of a pollutant from an emissions source.

a. In general, actual emissions as of the baseline period shall equal the average rate at which the source actually emitted the pollutant during the baseline period and which is representative of normal source operation. [The Department shall allow the use of a different time period upon a determination that it is more representative of normal source operation.] Actual emissions shall be calculated using the source's actual operating hours, production rates and types of materials processed, stored, or combusted during the selected time period.

b. The Department may presume that existing source-specific permitted mass emissions for the source are equivalent to the actual emissions of the source if they are within 10% of the calculated actual emissions.

c. For any newly permitted emission source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source.

2. "Baseline Concentration" means that ambient concentration level for a particular pollutant which existed in an area during the calendar year 1978. If no ambient air quality data is available in an area, the baseline concentration may be estimated using modeling based on actual emissions for 1978.

The following emission increases or decreases will be included in the baseline concentration:

a. Actual emission increases or decreases occurring before January 1, 1978, and

b. Actual emission increases from any major source or major modification on which construction commenced before January 6, 1975.

3. "Baseline Period" means either [the average of] calendar years 1977 or [and] 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation.

4. "Best Available Control Technology (BACT)" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction of each air contaminant subject to regulation under the Clean Air Act which would be emitted from any proposed major source or major modification which, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques

for control of such air contaminant. In no event, shall the application of BACT result in emissions of any air contaminant which would exceed the emissions allowed by any applicable new source performance standard or any standard for hazardous air pollutants. If an emission limitation is not feasible, a design, equipment, work practice, or operational standard, or combination thereof, may be required. Such standard shall, to the degree possible, set forth the emission reduction achievable and shall provide for compliance by prescribing appropriate permit conditions.

5. "Commence" means that the owner or operator has obtained all necessary preconstruction approvals required by the Clean Air Act and either has:

   a. Begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed in a reasonable time, or

   b. Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed in a reasonable time.

6. "Construction" means any physical change (including fabrication, erection, installation, demolition, or modification of an emissions unit) or change in the method of operation of a source which would result in a change in actual emissions.

7. "Dispersion Technique" means any air contaminant control procedure which depends upon varying emissions with atmospheric conditions including but not limited to supplementary or intermittent control systems and excessive use of enhanced plume rise.

8. "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of these provisions, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

9. "Emissions Unit" means any part of a stationary source (including specific process equipment) which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

10. "Fugitive emissions" means emissions of any air contaminant which escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct, or equivalent opening.

11. "Good Engineering Practice Stack Height" means that stack height necessary to insure that emissions from the stack do not result in excessive concentrations of any air contaminant in the immediate vicinity of the source as a result of atmospheric downwash, eddies, and wakes which may be created by the source structure, nearby structures, or nearby terrain obstacles and shall not exceed the following:

    a. 30 meters, for plumes not influenced by structures or terrain;

    b. $H_G = H + 1.5\ L$, for plumes influenced by structures;
    Where H_G = good engineering practice stack height,
    H = height of structure or nearby structure,
    L = lesser dimension (height or width) of the structure or nearby structure,

    c. Such height as an owner or operator demonstrates, after notice and opportunity for public hearing, is necessary to avoid plume downwash.

12. "Growth Increment" means an allocation of some part of an airshed's capacity to accomodate future new major sources and major modifications of sources.

13. "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects a) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or b) the most stringent emission limitation which is achieved in practice by such class or category of source, whichever is more stringent. In no event, shall the application of this term permit a proposed new or modified source to emit any air contaminant in excess of the amount allowable under applicable new source performance standards or standards for hazardous air pollutants.

14. "Major Modification" means any physical change or change of operation of a source that would result in a net significant emission rate increase (as defined in definition 22) for any pollutant subject to regulation under the Clean Air Act. This criteria also applies to any pollutants not previously emitted by the source. Calculations of net emission increases must take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase,

the modifications causing such increases become subject to the New Source Review requirements including the retrofit of required controls.

15. "Major source" means a stationary source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate (as defined in definition 22).

16. "Nonattainment Area" means a geographical area of the State which exceeds any State or Federal primary or secondary ambient air quality standard as designated by the Environmental Quality Commission.

17. "Offset" means an equivalent or greater emission reduction which is required prior to allowing an emission increase from a new major source or major modification of a source.

18. "Plant Site Emission Limit" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.

19. "Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control

equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a source.

20. "Resource Recovery Facility" means any facility at which municipal solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing municipal solid waste for reuse. Energy conversion facilities must utilize municipal solid waste to provide 50% or more of the heat input to be considered a resource recovery facility.

21. "Secondary Emissions" means emissions from new or existing sources which occur as a result of the construction and/or operation of a source or modification, but do not come from the source itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source associated with the secondary emissions. Secondary emissions may include, but are not limited to:

    a. Emissions from ships and trains coming to or from a facility,

    b. Emissions from off-site support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.

22. "Significant emission rate" means emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act.

Table 1: Significant Emission Rates for Pollutants Regulated under the Clean Air Act

Pollutant	Significant Emission Rate
Carbon Monoxide	100 tons/year
Nitrogen Oxides	40 tons/year
Particulate Matter*	25 tons/year
Sulfur Dioxide	40 tons/year
Volatile Organic Compounds*	40 tons/year
Lead	0.6 ton/year
Mercury	0.1 ton/year
Beryllium	0.0004 ton/year
Asbestos	0.007 ton/year
Vinyl Chloride	1 ton/year
Fluorides	3 tons/year
Sulfuric Acid Mist	7 tons/year
Hydrogen Sulfide	10 tons/year
Total reduced sulfur (including hydrogen sulfide)	10 tons/year
Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

* For the nonattainment portions of the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rates for particulate matter and volatile organic compounds are defined in Table 2.

For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate.

Any emissions increase less than these rates associated with a new source or modification which would construct within 10 kilometers of a Class I area, and would have an impact on such area equal to or greater than 1 ug/m^3 (24 hour average) shall be deemed to be emitting at a significant emission rate.

Table 2: Significant Emission rates for the Nonattainment Portions of the Medford-Ashland Air Quality Maintenance Area.

	Emission Rate					
	Annual		Day		Hour	
Air Contaminant	Kilograms	(tons)	Kilograms	(lbs)	Kilograms	(lbs)
Particulate Matter (TSP)	4,500	(5.0)	23	(50.0)	4.6	(10.0)
Volatile Organic Compound (VOC)	18,100	(20.0)	91	(200)	--	--

23. "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than:

	Pollutant Averaging Time				
Pollutant	Annual	24-hour	8-hour	3-hour	1-hour
SO_2	1.0 ug/m^3	5 ug/m^3		25 ug/m^3	
TSP	0.2 ug/m^3	1.0 ug/m^3			
NO_2	1.0 ug/m^3				
CO			0.5 mg/m^3		2 mg/m^3

For sources of volatile organic compounds (VOC), a major source or major modification will be deemed to have a significant impact if it is located within 30 kilometers of an ozone nonattainment area and is capable of impacting the nonattainment area.

24. "Source" means any building, structure, facility, installation or combination thereof which emits or is capable of emitting air contaminants to the atmosphere and is located on one or more contiguous or adjacent properties and is owned or operated by the same person or by persons under common control.

340-20-230 Procedural Requirements

1. Information Required

The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or make any determination required under these Rules. Such information shall include, but not be limited to:

a. A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

b. An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, seasonal, and yearly rates, showing the calculation procedure;

c. A detailed schedule for construction of the source or modification;

d. A detailed description of the system of continuous emission reduction which is planned for the source or modification, and any other information necessary to determine that best available control technology or lowest achievable emission rate technology, whichever is applicable, would be applied;

e. To the extent required by these rules, an analysis of the air quality impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

f. To the extent required by these rules, an analysis of the air quality impacts, and the nature and extent of all commercial, residential, industrial, and other growth which has occurred since January 1, 1978, in the area the source or modification would affect.

2. Other Obligations

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to these Rules or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the

effective date of these regulations without applying for and receiving an Air Contaminant Discharge Permit, shall be subject to appropriate enforcement action.

Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of 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. The Department may extend the 18-month period upon satisfactory showing that an extension is justified. 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.

Approval to construct shall 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.

3. Public Participation

a. Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application

or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Department received all required information.

b. Notwithstanding the requirements of OAR 340-14-020, but as expeditiously as possible and at least within six months after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner.

A. Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

B. Make available for a 30 day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

C. Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination,

the extent of increment consumption that is expected from the source or modification, and the opportunity for a public hearing and for written public comment.

D. Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the Environmental Protection Agency.

E. Upon determination that significant interest exists, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR 345, Division 15.

F. Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.

G. Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

H. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.

340-20-235 Review of New Sources and Modifications for Compliance With Regulations

The owner or operator of a proposed major source or major modification must demonstrate the ability of the proposed source or modification to comply with all applicable requirements of the Department of Environmental Quality, including New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, and shall obtain an Air Contaminant Discharge Permit.

340-20-240 Requirements for Sources in Nonattainment Areas

New major sources and major modifications which are located in designated nonattainment areas shall meet the requirements listed below.

1. Lowest Achievable Emission Rate

The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with the lowest achievable emission rate (LAER)[.] <u>for each nonattainment pollutant.</u> In the case of a major modification, the requirement for LAER shall apply only to each new or modified emission unit which increases emissions. For

phased construction projects, the determination of LAER shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

2. Source Compliance

The owner or operator of the proposed major source or major modification must demonstrate that all 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 on a schedule for compliance, with all applicable emission limitations and standards under the Clean Air Act.

3. Growth Increment or Offsets

The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with any established emissions growth increment for the particular area in which the source is located or must provide emission reductions ("offsets") as specified by these rules. A combination of growth increment allocation and emission reductions may be used to demonstrate compliance with this section. Those emission increases for which offsets can be found through the best efforts of the applicant shall not be eligible for a growth increment allocation.

4. Net Air Quality Benefit

For cases in which emission reductions or offsets are required, the applicant must demonstrate that a net air quality benefit will be achieved in the affected area as described in OAR 340-20-260 (Requirements for Net Air Quality Benefit) and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards.

5. Alternative Analysis

An alternative analysis must be conducted for new major sources or major modifications of sources emitting volatile organic compounds or carbon monoxide locating in nonattainment areas.

This analysis must include an evaluation of alternative sites, sizes, production processes, and environmental control techniques for such proposed source or modification which demonstrates that benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

6. Special Exemption for the Salem Ozone Nonattainment Area

Proposed major sources and major modifications of sources of volatile organic compounds which are located in the Salem Ozone

nonattainment area shall comply with the requirements of Sections 1 and 2 of OAR 340-20-240 but are exempt from all other sections of this rule.

7. Growth Increments

a. Medford-Ashland Ozone Nonattainment Area

The ozone control strategy for the Medford-Ashland nonattainment area establishes a growth increment for new major sources or major modifications which will emit volatile organic compounds. The cumulative volatile organic compound growth increment may be allocated as follows:

year	cummulative volatile organic compound growth increment
1980 to 1982	185 tons of VOC
1983	388
1984	591
1985	794
1986	997
1987	1200

No single owner or operator shall receive an allocation of more than 50% of any remaining growth increment in any one year. The growth increment shall be allocated on a first come-first served basis depending on the date of submittal of a complete permit application.

340-20-245 Requirements for Sources in Attainment or Unclassified Areas (Prevention of Significant Deterioration)

New Major Sources or Major Modifications locating in areas designated attainment or unclassifiable shall meet the following requirements:

1. Best Available Control Technology

   The owner or operator of the proposed major source or major modification shall apply best available control technology (BACT) for each pollutant which is emitted at a significant emission rate (OAR 340-20-225 definition 22). In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

2. Air Quality Analysis

   The owner or operator of the proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate (OAR 340-20-225 definition 22), in conjunction with all other applicable emissions increases and decreases, (including secondary emissions), would not cause or contribute to air quality levels in excess of:

a. Any State or National ambient air quality standard, or

b. Any applicable increment established by the Prevention of Significant Deterioration requirements (OAR 340-31-110), or

c. An impact on a designated nonattainment area greater than the significant air quality impact levels (OAR 340-20-225 definition 23).

Sources or modifications with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and are greater than 50 kilometers from a nonattainment area are not required to assess their impact on the nonattainment area.

If the owner or operator of a proposed major source or major modification wishes to provide emission offsets such that a net air quality benefit as defined in OAR 340-20-260 is provided, the Department may consider the requirements of OAR 340-20-245(2) to have been met.

3. Exemption for Sources Not Significantly Impacting Designated Nonattainment Areas.

A proposed major source is exempt from OAR 340-20-220 to 275 if:

a. The proposed source does not have a significant air quality impact on a designated nonattainment area, and

b. The potential emissions of the source are less than 100 tons/year for sources in the categories listed in Table 3 or less than 250 tons/year for sources not in the categories listed in Table 3.

Major modifications are not exempted under this section. Owners or operators of proposed sources which are exempted by this provision should refer to OAR 340-20-020 to 032 and OAR 340-20-140 to 185 for possible applicable requirements.

Table 3: Source Categories

1. Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input
2. Coal cleaning plants (with thermal dryers)
3. Kraft pulp mills
4. Portland cement plants
5. Primary Zinc Smelters

6. Iron and Steel Mill Plants
7. Primary aluminum ore reduction plants
8. Primary copper smelters
9. Municipal Incinerators capable of charging more than 250 tons of refuse per day
10. Hydrofluoric acid plants
11. Sulfuric acid plants
12. Nitric acid plants
13. Petroleum Refineries
14. Lime plants
15. Phosphate rock processing plants
16. Coke oven batteries
17. Sulfur recovery plants
18. Carbon black plants (furnace process)
19. Primary lead smelters
20. Fuel conversion plants
21. Sintering plants
22. Secondary metal production plants
23. Chemical process plants
24. Fossil fuel fired boilers (or combinations thereof) totaling more than 250 million BTU per hour heat input
25. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels
26. Taconite ore processing plants
27. Glass fiber processing plants
28. Charcoal production plants

4. Air Quality Models

All estimates of ambient concentrations required under these Rules shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models" (OAQPS 1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, April 1978). Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change must be subject to notice and opportunity for public comment and must receive approval of the Commission and the Environmental Protection Agency. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, May, 1978) should be used to determine the comparability of air quality models.

5. Air Quality Monitoring

a. The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality in the area of the proposed project. This analysis

shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality levels, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year 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 increment.

Air quality monitoring which is conducted pursuant to this requirement shall be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring" and with other methods on file with the Department.

The Department may exempt a proposed major source or major modification from 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 the concentrations of the pollutant in the area that the source or modification would impact are less than these amounts.

Carbon monoxide - 575 ug/m^3, 8 hour average
Nitrogen dioxide - 14 ug/m^3, annual average
Total suspended particulate - 10 ug/m^3, 24 hour average
Sulfur dioxide - 13 ug/m^3, 24 hour average
Ozone - Any net increase of 100 tons/year or more of volatile organic compounds from a source or modification subject to PSD is required to perform an ambient impact analysis, including the gathering of ambient air quality data.
Lead - 0.1 ug/m^3, 24 hour average
Mercury - 0.25 ug/m^3, 24 hour average
Beryllium - 0.0005 ug/m^3, 24 hour average
Fluorides - 0.25 ug/m^3, 24 hour average
Vinyl chloride - 15 ug/m^3, 24 hour average
Total reduced sulfur - 10 ug/m^3, 1 hour average
Hydrogen sulfide - 0.04 ug/m^3, 1 hour average
Reduced sulfur compounds - 10 ug/m^3, 1 hour average

b. The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such ambient air quality monitoring as the Department may require as a permit condition to establish the effect which emissions of a pollutant (other than nonmethane hydrocarbons) may have, or is having, on air quality in any area which such emissions would affect.

6. Additional Impact Analysis

a. The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value.

b. The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the major source or modification.

7. Sources Impacting Class I Areas

Where a proposed major source or major modification impacts or may impact a Class I area, the Department shall provide notice to the Environmental Protection Agency and to the appropriate Federal Land Manager of the receipt of such permit application and of any preliminary and final actions taken with regard to such application. The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-20-230 Section 3 to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values (including visibility) of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration the permit shall not be issued.

340-20-250 Exemptions

1. Resource recovery facilities burning municipal refuse and sources subject to federally mandated fuel switches may be exempted by the Department from requirements OAR 340-20-240 Sections 3 and 4 provided that:

a. No growth increment is available for allocation to such source or modification, and

b. The owner or operator of such source or modification demonstrates that every effort was made to obtain sufficient offsets and that every available offset was secured.

(Such an exemption may result in a need to revise the State Implementation Plan to require additional control of existing sources.)

2. Temporary emission sources, which 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 340-20-240(1) and (2) or OAR 340-20-245(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340-20-240 and OAR 340-20-245 provided that the source or modification would impact no Class I area or no area where an applicable increment is known to be violated.

3. Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in an Air Contaminant Discharge Permit and would not involve

a physical change in the source may be exempted from the requirement of OAR 340-20-245(1) (Best Available Control Technology) provided that the increases cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality impact levels.

4. Also refer to OAR 340-20-245(3) for exemptions pertaining to sources smaller than the Federal Size-cutoff Criteria.

340-20-255 Baseline for Determining Credit for Offsets

The baseline for determining credit for emission offsets shall be the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 320 or, in the absence of a Plant Site Emission Limit, the actual emission rate for the source providing the offsets. Sources in violation of air quality emission limitations may not supply offsets from those emissions which are or were in excess of permitted emission rates. Offsets, including offsets from mobile and area source categories, must be quantifiable and enforceable before the Air Contaminant Discharge Permit is issued and must be demonstrated to remain in effect throughout the life of the proposed source or modification.

Offsets may not be provided from the amount of emission reduction required by an air quality regulation or air quality attainment strategy that has been reserved by the Environmental Quality Commission (OAR 340-20-280).

340-20-260 Requirements for Net Air Quality Benefit

Demonstrations of net air quality benefit must include the following.

1. A demonstration must be provided showing that the proposed offsets will improve air quality in the same geographical area affected by the new source or modification. Offsets for volatile organic compounds or nitrogen oxides shall be within the same general air basin as the proposed source. Offsets for total suspended particulate, sulfur dioxide, carbon monoxide and other pollutants shall be within the area of significant air quality impact.

2. For new sources or modifications locating within a designated nonattainment area, the emission offsets must provide reductions which are equivalent or greater than the proposed increases. The offsets must be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed

emissions. For new sources or modifications locating outside of a designated nonattainment area which have a significant air quality impact (OAR 340-20-225 definition 23) on the nonattainment area, the emission offsets must be sufficient to reduce impacts to levels below the significant air quality impact level within the nonattainment area. Proposed major sources or major modifications which emit volatile organic compounds and are located in or within 30 kilometers of an ozone nonattainment area shall provide reductions which are equivalent or greater than the proposed emission increases unless the applicant demonstrates that the proposed emissions will not impact the nonattainment area.

3. The emission reductions must be of the same type of pollutant as the emissions from the new source or modification. Sources of respirable particulate (less than three microns) must be offset with particulate in the same size range. In areas where atmospheric reactions contribute to pollutant levels, offsets may be provided from precursor pollutants if a net air quality benefit can be shown.

4. The emission reductions must be contemporaneous, that is, the reductions must take effect prior to the time of startup but not more than one year prior to the submittal of a complete permit application for the new source or modification. This time

limitation may be extended as provided for in OAR 340-20-265 (Emission Reduction Credit Banking). In the case of replacement facilities, the Department may allow simultaneous operation of the old and new facilities during the startup period of the new facility provided that net emissions are not increased during that time period.

340-20-265 Emission Reduction Credit Banking

The owner or operator of a source of air pollution who wishes to reduce emissions by implementing more stringent controls than required by a permit or by an applicable regulation may bank such emission reductions. Cities, counties or other local jurisdictions may participate in the emissions bank in the same manner as a private firm. Emission reduction credit banking shall be subject to the following conditions:

1. To be eligible for banking, emission reduction credits must be in terms of actual emission decreases resulting from permanent continuous control of existing sources. The baseline for determining emission reduction credits shall be the actual emissions of the source or the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 320.

2. Emission reductions may be banked for a specified period not to exceed ten years unless extended by the Commission, after which time such reductions will revert to the Department for use in attainment and maintenance of air quality standards or to be allocated as a growth margin.

3. Emission reductions which are required pursuant to an adopted rule or those that are reserved for control strategies pursuant to OAR 340-20-280 shall not be banked.

4. Permanent source shutdowns or curtailments other than those used within one year for contemporaneous offsets as provided in OAR 340-20-260(4) are not eligible for banking by the owner or operator but will be banked by the Department for use in attaining and maintaining standards. The Department may allocate these emission reductions as a growth increment. <u>The one year limitation for contemporaneous offsets shall not be applicable to those shutdowns or curtailments which are to be used as internal offsets within a plant as part of a specific plan. Such a plan for use of internal offsets shall be submitted to the Department and receive written approval within one year of the permanent shutdown or curtailment.</u>

5. The amount of banked emission reduction credits shall be discounted without compensation to the holder for a particular source category when new regulations requiring emission reductions are adopted by the Commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new regulation. Banked emission reduction credits shall be subject to the same rules, procedures, and limitations as permitted emissions.

6. <u>The Commission may declare a moratorium on withdrawals of emission reduction credits from the bank</u> [The amount of banked emission reduction credits may be uniformly discounted by action of the Commission] if it is established that reasonable further progress toward attainment of air quality standards is not being achieved and no other control strategy is available.

7. Emission reductions must be in the amount of ten tons per year or more to be creditable for banking. In the Medford-Ashland AQMA emission reductions must be at least in the amount specified in Table 2 of OAR 340-20-225(22).

8. Requests for emission reduction credit banking must be submitted to the Department and must contain the following documentation:

a. A detailed description of the processes controlled,

b. Emission calculations showing the types and amounts of actual emissions reduced,

c. The date or dates of such reductions,

d. Identification of the probable uses to which the banked reductions are to be applied,

e. Procedure by which such emission reductions can be rendered permanent and enforceable.

9. Requests for emission reduction credit banking shall be submitted to the Department prior to or within the year following the actual emissions reduction. The Department shall approve or deny requests for emission reduction credit banking and, in the case of approvals, shall issue a letter to the owner or operator defining the terms of such banking. The Department shall take steps to insure the permanence and enforceability of the banked emission reductions by including appropriate conditions in Air Contaminant Discharge Permits and by appropriate revision of the State Implementation Plan.

10. The Department shall provide for the allocation of the banked emission reduction credits in accordance with the uses specified by the holder of the emission reduction credits. When emission reduction credits are transfered, the Department must be notified in writing. Any use of emission reduction credits must be compatible with local comprehensive plans, Statewide planning goals, and State laws and rules.

340-20-270 Fugitive and Secondary Emissions

Fugitive emissions shall be 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 shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions must be added to the primary emissions and become subject to these rules.

340-20-275 Stack Heights

The degree of emission limitation required for any air contaminant regulated under these rules shall not be affected in any manner by

so much of the stack height as exceeds good engineering practice or by any other dispersion technique. This section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before that date.

[340-20-280 Reserved Control Strategies

The following categories of volatile organic compound sources are hereby reserved in the Portland ozone nonattainment area for possible use in standards attainment plans and shall not be used for offsets or emission reduction credit banking until such time as the ozone SIP is adopted.

1 - Annual Automobile Inspection Maintenance Program

2 - Architectural Coatings

3 - Gasoline Service Stations, Stage II

4 - Barge and Vessel loading of gasoline and other light petroleum products

5 - Paper coating in manufacturing

6 - Petroleum Base (Stoddard) Dry Cleaners]

hall be exempted from registration as required by ORS 8.320 and OAR 340-20-005, 340-20-010, and 340-20-015.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.18; DEQ 20-1979, f. & ef. 6-29-79

Permit Program For Regional Air Pollution Authority

340-20-185 Subject to the provisions of this rule, the Commission authorizes the Regional Authority to issue, modify, renew, suspend, and revoke air contaminant discharge permits for air contamination sources within its jurisdiction.

(1) Each permit proposed to be issued or modified by the Regional Authority shall be submitted to the Department at least thirty (30) days prior to the proposed issuance date.

(2) A copy of each permit issued, modified, or revoked by the Regional Authority shall be promptly submitted to the Department.

Stat. Auth.: ORS Ch.
Hist: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.20

Special Permit Requirements For Sources Locating in or Near Nonattainment Areas

Applicability in Nonattainment Areas

~~340-20-190 Rules 340-20-190 to 340-20-192 shall apply to~~ proposed major new or modified carbon monoxide (CO) or Volatile Organic Compounds (VOC) sources in nonattainment areas.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1979, f. & ef. 6-22-79

Definitions: Rules 340-20-190 to 340-20-192

340-20-191 As used in rules 340-20-190 to 340-20-192, unless otherwise required by context:

(1) "Alternative Analysis" means an analysis conducted by the proposed source which considers alternative sites, sizes, production processes and environmental control techniques and which demonstrates that benefits of the proposed source significantly outweigh the environmental and social cost imposed as a result of the project.

(2)(a) "LAER" means the rate of emissions which reflects:

(A) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or not maintainable for the proposed source; or

(B) The most stringent emission limitation which is achieved and maintained in practice by such class or category or source, whichever is more stringent.

(b) In no event shall the application of LAER allow a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance(OAR 340-25-535).

(3) "Major New or Modified Source" means any stationary source which emits or has the potential to emit one hundred tons per year or more of CO or VOC and is proposed for construction after July 1, 1979. The term "modified" means any single or cumulative physical change or change in the method of operation which increases the potential to emit emissions of any criteria air pollutant one hundred tons per year or more over previously permitted limits.

(4)"Nonattainment Area" means, for any air pollutant the actural area, as shown in Figures 5 through 11, in which such pollutant exceeds any national ambient air quality standard.

~~(5) "Potential to emit" means the maximum capacity to~~ emit a pollutant absent air pollution control equipment which is not intrinsically vital to the production or operation of the source.

(6) "Reasonable Further Progress" means annual incremental reductions in emission of the applicable air pollutant identified in the SIP which are sufficient to provide for attainment of the applicable national ambient air quality standard by the date required in the SIP.

(7) "SIP" means the Oregon State Implementation Plan submitted to and approved most recently by the EPA pursuant to the Clear Air Act.

(8) "Proposed for Construction" means that the owner or operator of a major stationary source or major modification has applied for a permit from the Department after July 1, 1979.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1979, f. & ef. 6-22-79

Requirements — Nonattainment Areas

340-20-192 A construction and operating permit may be issued to a major new or modified source proposing to locate in a nonattainment area only if the following requirements are met:

(1) There is a sufficient emission growth increment available which is identified in the adopted state plan or an emission offset is provided such that the reasonable further progress commitment in the SIP is still met. The EPA Offset Ruling of January 16, 1979, (40 CFR PART 51 Appendix S) will be used as a guide in indentifying specific offset requirements.

(2) The proposed source is required to comply with the LAER. Only the increments of change above the 100 ton/year potential increase of the modified source are required to comply with LAER.

(3) The owner or operator has demonstrated that all major stationary sources owned or operated by such person in the State of Oregon are in compliance or on a compliance schedule with applicable requirements of the adopted state plan.

(4) An alternative analysis is made for major new or modified sources of carbon monoxide or volatile organic compounds.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1979, f. & ef. 6-22-79

Applicability in Attainment Areas

340-20-193 Rules 340-20-193 to 340-20-195 shall apply as noted to proposed major new or modified sources located in attainment areas that would have allowable emissions greater than 50 tons/year of CO or VOC which may impact a nonattainment area. (it should be noted that for sources emitting less than 50 tons/year of an air pollutant that rule 340-20-001 still requires application of highest and best practicable treatment and control and rule 340-31-010 provides for denial of construction should such a source prevent or interfere with attainment or maintenance of ambient air quality standards.)

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1979, f. & ef. 6-22-79

Definitions — Rules 340-20-193 to 340-20-195

340-20-194 As used in rules 340-20-193 to 340-20-195, unless otherwise required by context:

(1) "Major New or Modified Source" means any stationary source which has allowable emission greater than fifty tons per year of CO or VOC and is proposed for construction after July 1, 1979. The term "modified" means any single or cumulaative physical change or change in the method of operation which increase the emissions of any criteria air

~~pollutant more than fifty tons per year over previously~~ permitted limits.

(2) "Alternative Analysis", "LAER", "Nonattainment Area", "Reasonable Further Progress", and "SIP" have the same meanings as provided in rule 340-20-191.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1979, f. & ef. 6-22-79

Requirements

340-20-195 A construction and operating permit may be issued to a major new or modified source proposing to locate in an attainment area only if one of the following requirements are met:

(1) The emissions from the proposed source are modeled to have an impact on all nonattainment areas equal to or less than the significance levels listed in Table 2 of this division; and or

(2) The requirements of rule 340-20-192 are met if the emissions from the proposed source are modeled to have an impact on the nonattainment area greater than the significance levels of Table 2 of this division.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1979, f. & ef. 6-22-79

Emission Limitations on a Plant Site Basis

340-20-196 The purpose of rules 340-20-196 to 340-20-198 is to insure that emissions from sources located anywhere in the state are limited to levels consistent with State Implementation Plan data bases, control strategies, overall airshed carrying capacity, and programs to prevent significant deterioration.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1979, f. & ef. 6-22-79

Definitions — Rules 340-20-196 to 340-20-198

340-20-197 As used in rules 340-20-196 to 340-20-198, unless otherwise required by context:

(1) "Facility" means an identifiable piece of process equipment. A source may be comprised of one or more pollutant-emitting facilities.

(2) "Source" means any structure, building, facility, equipment, installation or operation, or combination thereof, which is located on one or more contiguous or adjacent properties and which is owner or operated by the same person, or by persons under common control.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1979, f. & ef. 6-22-79

Limitation by Permit

340-20-198 For the purposes set forth in rule 340-20-196, the Department may limit by permit condition the amount of air contaminants emitted from a source. This emission limitation shall take form of limiting emissions on a mass per unit time basis including an annual kilograms per year limit and may also include a monthly and daily limit.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 16-1979, f. & ef. 6-22-79

Conflicts of Interest

Purpose

340-20-200 The purpose of rules 340-20-200 to 340-20-215 is to comply with the requirements of Section 128 of the federal Clean Air Act as amended August, 1977 (Public Law 95-95) (hereinafter called "Clean Air Act"), regarding public interest representation by a majority of the members of the Commission and by the Director and disclosure by them of potential conflicts of interest.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 15-1978, f. & ef. 10-13-78

Definitions

340-20-205 As used in rules 340-20-200 to 340-20-215, unless otherwise required by context:

(1) "Disclose" means explain in detail in a signed written statement prepared at least annually and available for public inspection at the Office of the Director or the Oregon Ethics Commission.

(2) "Commission" means the Oregon Environmental Quality Commission.

(3) "Director" means the Director of the Oregon Department of Environmental Quality.

(4) "Persons subject in Oregon to permits or enforcement orders under the Clean Air Act" includes any individual, corporation, partnership, or association who holds, is an applicant for, or is subject to any permit, or who is or may become subject to any enforcement order under the Clean Air Act, except that it does not include:

(a) An individual who is or may become subject to an enforcement order solely by reason of his or her ownership or operation of a motor vehicle; or

(b) Any department or agency of a state, local, or regional government.

(5) "Potential conflict of interest" includes:

(a) Any significant portion of income from persons subject in Oregon to permits or enforcement orders under the Clean Air Act; and

(b) Any interest or relationship that would preclude the individual having the interest or relationship from being considered one who represents the public interest.

(6) "Represent the public interest" means that, other than an insignificant portion of income, the individual has no special interest or relationship that would preclude objective and fair consideration and action by that individual in the best interest of the general public.

(7) "Significant portion of income" means 10 percent or more of gross personal income for a calendar year, including retirement benefits, consultant fees, and stock dividends, except that it shall mean 50 percent or more of gross personal income for a calendar year if the recipient is over 60 years of age and is receiving such portion pursuant to retirement, pension, or similar arrangement. For purposes of this section, income derived from mutual-fund payments, or from other diversified investments as to which the recipient does not know the identity of the primary sources of income, shall be considered part of the recipient's gross personal income but shall not be treated as income derived from persons subject to permits or enforcement orders under the Clean Air Act.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 15-1978, f. & ef. 10-13-78

Public Interest Representation

340-20-210 At least a majority of the members of the Commission and the Director shall represent the public interest and shall not derive any significant portion of their respective incomes directly from persons subject in Oregon to permits or enforcement orders under the Clean Air Act.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 15-1978, f. & ef. 10-13-78

Disclosure of Potential Conflicts of Interest

340-20-215 Each member of the Commission and the Director shall disclose any potential conflict of interest.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 15-1978, f. & ef. 10-13-78

DIVISION 32

CRITERIA FOR APPROVAL OF NEW AIR CONTAMINANT SOURCES IN THE PORTLAND METROPOLITAN SPECIAL AIR QUALITY MAINTENANCE AREA

Purpose

~~340-32-005 The purpose of this division is to provide~~ criteria for the Department to follow in reviewing and approving air contaminant discharge permit applications for new or expanded air contaminant sources, including their proposed site locations and general designs, in the Portland Metropolitan Special Air Quality Maintenance Area; to assure that air quality standards can be achieved and maintained without major disruption to the orderly growth and development of the area.

Stat. Auth.: ORS Ch.
Hist: DEQ 84, f. 1-30-75, ef. 2-25-75

Definitions

340-32-010 (1) "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid, or particulate matter or any combinition thereof.

(2) "Implementation plan" means the State of Oregon Clean Air Act Implementation Plan described in rule 340-20-047, together with amendments thereto.

(3) "New or expanded air contaminant source" means an air contamination source, as defined in ORS 468.275, whose construction, installation, establishment, development, modification, or enlargement is authorized by the Department after October 25, 1974.

(4) "Portland Metropolitan Special Air Quality Mantenance Area" means that portion of the State of Oregon within the boundaries designated by the Columbia Region Association of Governments as the 1970 Transportation Study Area, as shown on Figure 1 attached (generally, the area bounded by the Columbia River to the north; communities of Troutdale, Pleasant Valley, and Gladstone to the east; Oregon City to the south; and Hillsboro to the west). Legal definition of the maintenance area is on file with the Department.

(5) "Yearly projected average controllable growth" means 215 tons/year of particulate emissions and 715 tons/year of sulfur dioxide from new or expanded air contaminant point sources as follows:

(a) Commercial and industrial fuel combustion sources,
(b) Process loss sources,
(c) Solid waste incinerators,
(d) Wigwam waste burners, and
(e) Power plants.

Stat. Auth.: ORS Ch.
Hist: DEQ 84, f. 1-30-75, ef. 2-25-75

Special Air Quality Maintenance Area

340-32-015 The Portland Metropolitan Special Air Quality Maintenance Area is hereby established as a special air quality maintenance area to which the rules provided in this division shall apply.

Stat. Auth.: ORS Ch.
Hist: DEQ 84, f. 1-30-75, ef. 2-25-75

Criteria

340-32-020 (1) In reviewing applications for air contaminant discharge permits for new or expanded air contaminant sources in the Portland Metropolitan Special Air Quality Maintenance Area, the Department shall consider the potential effect upon air quality of increases in particulate and sulfur dioxide emissions from such new or expanded air contaminant sources and shall approve such permit applications only to the extent that:

(a) Ambient air quality standards will not be exceeded at air sampling stations and adjacent areas between sampling stations for particulates and sulfur dioxide projected by the Department's March, 1974, report on Designation of Air Quality Maintenance Areas to be in compliance with such standards. A copy of the Department's March, 1974, report on Designation of Air Quality Maintenance Areas is on file in the Department's Portland office.

(b) Increases in particulate and sulfur dioxide emissions will not exceed two years of projected average controllable growth (equivalent to 430 tons/year of particulate and 1430 tons/year of sulfur dioxide).

(c) No single new or expanded air contaminant source shall emit particulates or sulfur dioxide in excess of 25 percent of the total allowable emissions (noted in subsections (a) and (b) above). The exact proportion may be determined by the Commission.

(2) The particulate and sulfur dioxide emissions allowable under subsections (a), (b), and (c) above shall be based on net emission increases after taking into account any offsetting emission reductions which may occur within the Portland Metropolitan Special Air Quality Maintenance Area, or portion thereof, which can be:

(a) Assured of implementation, and
(b) Are attributable to the source seeking the permit.

Stat. Auth.: ORS Ch.
Hist: DEQ 84, f. 1-30-75, ef. 2-25-75

Exceptions

340-32-025 New or expanded air contaminant sources projected to emit less than ten (10) tons per year of particulate ~~or sulfur dioxide shall be excepted from this rule~~.

Stat. Auth.: ORS Ch.
Hist: DEQ 84, f. 1-30-75, ef. 2-25-75

and 340-21-040 which concern particulate emission concentrations and process weight.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78

Compliance Schedules

340-30-045 (1) The person responsible for an existing emission source subject to 340-30-015 through 340-30-040 shall proceed promptly with a program to comply as soon as practicable with these rules. A proposed program and implementation plan shall be submitted no later than June 1, 1978, for each emission source to the Department for review and written approval. The Department shall within 45 days of receipt of a complete proposed program and implementation plan, notify the person concerned as to whether or not it is acceptable.

(2) The Department shall establish a schedule of compliance, including increments of progress, for each affected emission source. Each schedule shall include the dates, as soon as practicable, by which compliance shall be achieved, but in no case shall full compliance be later than the following dates:

(a) Wood Waste Boilers shall comply with rule 340-30-015 as soon as practicable, in accordance with approved compliance schedules, but by no later than January 1, 1980.

(b) Veneer Dryers shall comply with rule 340-30-020 as soon as practicable, in accordance with approved compliance schedules, but by no later than January 1, 1980.

(c) Air Conveying Systems shall comply with rule 340-30-025 as soon as practicable, in accordance with approved compliance schedules, but no later than January 1, 1981.

(d) Wood Particle Dryers at Hardboard and Particleboard Plants shall comply with rule 340-30-030 as soon as practicable, in accordance with approved compliance schedules, but by no later than January 1, 1981.

(e) Wigwam Waste Burners shall comply with rule 340-30-035 as soon as practicable, in accordance with approved compliance schedules, but by no later than January 1, 1980.

(f) Charcoal Producing Plants shall comply with rule 340-30-040 as soon as practicable, in accordance with approved compliance schedules, but by no later than January 1, 1982.

(3) Compliance schedule for Charcoal Producing Plants and Wood Particle Dryers at Hardboard and Particleboard Plants shall contain reasonable expeditious interim dates and pilot testing programs for control to meet the emission limits in 340-30-040(1) and 340-30-030, respectively. If pilot testing and cost analysis indicates that meeting the emission limits of these rules may be impractical, a public hearing shall be held no later than July 1, 1980, for Charcoal Producing Plants and January 1, 1980, for Wood Particle Dryers at Hardboard and Particleboard Plants to consider amendments to this limit.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78

Continuous Monitoring

340-30-050 The Department may require the installation and operation of instruments and recorders for measuring emissions and/or the parameters which affect the emission of air contaminants from sources covered by these rules to ensure that the sources and the air pollution control equipment are operated at all times at their full efficiency and effectiveness so that the emission of air contaminants is kept at the lowest practicable level. The instruments and recorders shall be periodically calibrated. The method and frequency of calibration shall be approved in writing by the Department. The recorded information shall be kept for a period of at least one year and shall be made available to the Department upon request.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78

Source Testing

340-30-055 (1) The person responsible for the following sources of particulate emissions shall make or have made tests to determine the type, quantity, quality, and duration of emissions, and/or process parameters affecting emissions, in conformance with test methods on file with the Department at the following frequencies: Source Test Frequencies

(a) Wood Waste Boilers — Once every year*

(b) Veneer Dryers — Once every year until January 1, 1983, and once every 3 years thereafter.

(c) Wood Particle Dryers at Hardboard and Particleboard Plants — Once every year

(d) Charcoal Producing Plants — Once every year*

*NOTE: If this test exceeds the annual emission limitation then three (3) additional tests shall be required at three (3) month intervals with all four (4) tests being averaged to determine compliance with the annual standard. No single test shall be greater than twice the annual average emission limitation for that source.

(2) Source testing shall begin at these frequencies within 90 days of the date by which compliance is to be achieved for each individual emission source.

(3) These source testing requirements shall remain in effect unless waived in writing by the Department because of adequate demonstration that the source is consistently operating at lowest practicable levels.

(4) Source tests on wood waste boilers shall not be performed during periods of soot blowing, grate cleaning, or other operating conditions which may result in temporary excursions from normal.

(5) Source tests shall be performed within 90 days of the startup of air pollution control systems.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78

Total Plant Site Emissions

~~340-30-060 The Department shall have the authority to~~ limit the total amount of particulate matter emitted ~~from~~ a plant site, consistent with requirements in ~~these~~ rules. Such limitation will be applied, ~~where necessary~~, to ensure that ambient air quality ~~standards~~ are not caused to be exceeded by the plant site ~~emissions~~ and that plant site emissions are kept to lowest ~~practicable levels~~.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78

New Sources

340-30-065 New sources shall be required to comply with rules 340-30-015 through 340-30-040 immediately upon initiation of operation.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78

Open Burning

340-30-070 No open burning of domestic waste shall be initiated on any day or at any time when the Department advises fire permit issuing agencies that open burning is not allowed because of adverse meteorological or air quality conditions.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 4-1978, f. & ef. 4-7-78

Emission Offsets

~~340-30-110 The intent of this rule is to supplement and in~~ some cases be more stringent than the Federal Interpretative Ruling promulgated in the January 16, 1979 Federal Register on pages 3282 through 3285 (40 CFR, Part 51) hereby incorporated by reference (see Exhibit 1). To the extent any provision thereof is in conflict with a more stringent rule of the Environmental Quality Commission, the Environmental Quality Commission rule shall prevail.

(1) Any new or modified source which emits at a rate equal to or graeter than in Table 1 and is proposed to be constructed or operated in the area of the Medford-Ashland AQMA where a state of federal ambient air quality standard is:

(a) Being violated, shall comply with offset conditions, subsections (a) through (d) of section (2);

(b) Not being violated, but by modeling is projected to exceed the incremental air quality values of Table 2 in the area where the state or federal ambient air standard is being violated, shall comply with offset conditions, subsections (a) through (d) of section (2).

(2) Offset Conditions:

(a) The new or modified source shall meet an emission limitation which specifies the lowest achievable emission rate for such a source.

(b) The applicant provides certification that all existing sources in Oregon owned or controlled by the owner or operator of the proposed source are in compliance with all applicable rules or are in compliance with an approved schedule and timetable for compliance under state or regional rules.

(c) Emission offset from existing source(s) in the Medford-Ashland AQMA, whether or not under the same ownership, are obtained by the applicant on a greater than one-for-one basis.

(d) The emission offset provides a positive net air quality benefit in the affected area.

(3) A new source installed and operated for the sole purpose of compliance with OAR 340-30-035 shall be exempt from subsections (1) and (2) of OAR 340-30-110 providing all of the following are met:

(a) The new emission source complies with the applicable emission limitations in effect at the time the notice of construction is received by the Department; and

(b) Annual emissions from the new or modified source do not exceed one-fourth of the annual emission attributed to the wigwam burner in calendar year 1976.

(4) Banking as described in ~~44~~ FR 3282 subsection IV(C)(3) (see Exhibit 1) shall not be allowed. However, this restriction shall in no way modify any existing practice of the Depart~~ment which may be construed as banking~~.

Stat. Auth.: ORS Ch.
Hist: DEQ 9-1979, f. & ef. 5-3-79

Ozone

340-31-030 Concentrations of ozone at a primary air mass station, as measured by a method approved by and on file with the Department of Environmental Quality, or by an equivalent method, shall not exceed 160 micrograms per cubic meter (0.08 ppm), maximum 1-hour average. This standard is attained when the expected number of days per calendar year with maximum hourly concentrations greater than 160 micrograms per cubic meter is equal to or less than one as determined by Appendix H, CFR 40, Part 50.9 (page 8220) Federal Register 44 No. 28, February 8, 1979.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Department of Environmental Quality.]

Stat. Auth.: ORS Ch. 468
Hist: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 15-1979, f. & ef. 6-22-79; DEQ 7-1980, f. & ef. 3-5-80

Hydrocarbons

340-31-035 Concentrations of hydrocarbons at a primary air mass station, as measured and corrected for methane by a method approved by and on file with the Department of Environmental Quality, or by an equivalent method, shall not exceed 160 micrograms per cubic meter of air (0.24 ppm), maximum 3-hour concentration measured from 0600 to 0900, not to be exceeded more than once per year.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 37, f. 2-15-72, ef. 3-1-72

Nitrogen Dioxide

340-31-040 Concentrations of nitrogen dioxide at a primary air mass station, as measured by a method approved and on file with the Department of Environmental Quality, or by an equivalent method, shall not exceed 100 micrograms per cubic meter of air (0.05 ppm), annual arithmetic mean.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 37, f. 2-15-72, ef. 3-1-72

Particle Fallout

340-31-045 The particle fallout rate at a primary air mass station, primary ground level station, or special station, as measured by a method approved by and on file with the Department of Environmental Quality, or by an equivalent method, shall not exceed:

(1) 10 grams per square meter per month in an industrial area; or

(2) 5.0 grams per square meter per month in an industrial area if visual observations show a presence of wood waste or soot and the volatile fraction of the sample exceeds seventy percent (70%); or

(3) 5.0 grams per square meter per month in residential and commercial areas; or

(4) 3.5 grams per square meter per month in residential and commercial areas if visual observations show the presence of wood waste or soot and the volatile fraction of the sample exceeds seventy percent (70%).

Stat. Auth.: ORS Ch. 468
Hist: DEQ 37, f. 2-15-72, ef. 3-1-72

Calcium Oxide (Lime Dust)

340-31-050 (1) Concentrations of calcium oxide present as suspended particulate at a primary air mass station, as measured by a method approved by and on file with the Department of Environmental Quality, or by an equivalent method, shall not exceed 20 micrograms per cubic meter in residential and commercial areas at any time.

(2) Concentrations of calcium oxide present as particle fallout at a primary air mass station, primary ground level station, or special station, as measured by a method approved by and on file with the Department of Environmental Quality, or by an equivalent method, shall not exceed 0.35 grams per square meter per month in residential and commercial areas.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 37, f. 2-15-72, ef. 3-1-72

Ambient Air Quality Standard for Lead

340-31-055 The lead concentration measured at any individual sampling station, using sampling and analytical methods on file with the Department, shall not exceed 3.0 ug/m^3 as an arithmetic average concentration of all samples collected at that station during any one calendar month period.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 85, f. 1-29-75, ef. 2-25-75

Prevention of Significant Deterioration

General

340-31-100 (1) The purpose of these rules is to implement a program to prevent significant deterioration of air quality in the State of Oregon as required by the Federal Clean Air Act Amendments of 1977.

(2) The Department will review the adequacy of the State Implementation Plan on a periodic basis and within 60 days of such time as information becomes available that an applicable increment is being violated. Any Plan revision resulting from the reviews will be subject to the opportunity for public hearing in accordance with procedures established in the Plan.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Definitions

340-31-105 For the purposes of these rules:

~~(1) "Major stationary source" means~~:

(a) Any of the following stationary sources of air pollutants which emit, or have the potential to emit, 100 tons per year or more of any air pollutant: Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, Portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300 thousand barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants; and

(b) Notwithstanding the source sizes specified in subsection (1)(a) of this rule, any source which emits, or has the potential to emit, 250 tons per year or more of any pollutant.

(2) "Major modification" means any physical change in, change in the method of operation of, or addition to a stationary source which increases the potential emission rate of any air pollutant (including any not previously emitted and taking into account all accumulated increases in potential emissions occurring at the source since August 7, 1977, or since the time

~~occurring at the source since August 7, 1977, or since the time~~ of the last construction approval issued for the source pursuant to this section, whichever time is more recent, regardless of any emission reductions achieved elsewhere in the source) by either 100 tons per year or more for any source category identified in subsection (1)(a) of this rule, or by 250 tons per year or more for any stationary source.

(a) A physical change shall not include routine maintenance, repair and replacement.

(b) A change in the method of operation, unless previously limited by enforceable permit conditions, shall not include:

(A) An increase in the production rate, if such increase does not exceed the operating design capacity of the source;

(B) An increase in the hours of operation;

(C) Use of an alternative fuel or raw material by reason of an order in effect under Sections 2 (a) and (b) of the federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), or by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act;

(D) Use of an alternative fuel or raw material, if prior to January 6, 1975, the source was capable of accommodating such fuel or material;

(E) Use of an alternative fuel by reason of a federal order or rule under Section 125 of the federal Clean Air Act; or

(F) Change in ownership of the source.

(3) "Potential to emit" means the capability at maximum capacity to emit a pollutant in the absence of air pollution control equipment. "Air pollution control equipment" includes control equipment which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation. Annual potential shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the annual hours of operation. Enforceable permit conditions on the type or amount of materials combusted or processed may be used in determining the potential emission rate of a source.

(4) "Source" means any structure, building, facility, equipment, installation, or operation (or combination thereof) which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

(5) "Facility" means an identifiable piece of process equipment. A source is composed of one or more pollutant-emitting facilities.

(6) "Fugitive dust" means particulate matter composed of soil which is uncontaminated by pollutants resulting from industrial activity. Fugitive dust may include emissions from haul roads, wind erosion of exposed soil surfaces and soil storage piles and other activities in which soil is either removed, stored, transported, or redistributed.

(7) "Construction" means fabrication, erection, installation, or modification of a source.

(8) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of physical on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

(9) "Necessary preconstruction approvals or permits" means those permits or approvals required under Federal air quality control laws and regulations and those air quality control laws and regulations which are part of the State Implementation Plan.

(10) "Best available control technology" means an emission limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant which would be emitted from any proposed major stationary source or major modification which the Department, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR part 60 and part 61.

If the Department determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed instead to require the application of best available control technology. Such standard shall, to the degree possible, set forth the emission reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(11) "Baseline concentration" means that ambient concentration level reflecting actual air quality as of August 7, 1977, minus any contribution from major stationary sources and major modifications on which construction commenced on or after January 6, 1975. The baseline concentration shall include contributions from:

(a) The actual emissions of other sources in existence on August 7, 1977, except that contributions from facilities within such existing sources for which a Plan revision proposing less restrictive requirements was submitted on or before August 7, 1977, and was pending action by the EPA Administrator on that date shall be determined from the allowable emissions of such facilities under the Plan as revised; and

(b) The allowable emissions of major stationary sources and major modifications which commenced construction before January 6, 1975, but were not in operation by August 7, 1977.

(12) "Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the federal department with authority over such lands.

~~(13) "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a facility.~~

~~(14) "Low terrain" means any area other than high terrain.~~

(15) "Indian reservation" means any Federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(16) "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

~~(17) "Reconstruction" will be presumed to have taken~~ place where the fixed capital cost of the new components exceed 50 percent of the fixed capital cost of a comparable entirely new facility or source. However, any final decision as to whether reconstruction has occurred shall be based on:

(a) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility.

~~(b) The estimated life of the facility after the replacements~~ compared to the life of a comparable entirely new facility.

(c) The extent to which the components being replaced cause or contribute to the emissions from the facility.

A reconstructed source will be treated as a new source for purposes of this section, except that use of an alternative fuel or raw material by reason of an order in effect under sections 2 (a) and (b) of the federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation), by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, or by reason of an order or rule under section 125 of the federal Clean Air Act, shall not be considered reconstruction. In determining best available control technology for a reconstructed source, the following provision shall be taken into account in assessing whether a standard of performance under 40 CFR part 60 is applicable to such source:

Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

(18)"Fixed capital cost" means the capital needed to provide all of the depreciable components.

(19) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the source (unless the source is subject to enforceable permit conditions which limit the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) Applicable standards as set forth in 40 CFR part 60 and part 61;

(b) The State Implementation Plan emission limitation; or

(c) The emission rate specified as a permit condition.

(20) "State Implementation Plan" or "Plan" means the Clean Air Act Implementation Plan for Oregon as approved by the Environmental Quality Commission.

(21) "40 CFR" means Title 40 of the Code of Federal Regulations.

(22) "Air pollutant" means an air contaminant under Oregon statutes for which a state or national ambient air ~~quality standard exists~~.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Ambient Air Increments

340-31-110 (1) This rule defines significant deterioration. In areas designated as class I, II or III, emissions from new or modified sources shall be limited such that increases in pollutant concentration over the baseline concentration shall be limited to those set out in Table 1.

(2) For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Ambient Air Ceilings

340-31-115 No concentration of a pollutant shall exceed:

(1) The concentration permitted under the national secondary ambient air quality standard; or

(2) The concentration permitted under the national primary ambient air quality standard; or

(3) The concentration permitted under the state ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Restrictions on Area Classifications

340-31-120 (1) All of the following areas which were in existence on August 7, 1977, shall be Class I areas and may not be redesignated:

(a) Mt. Hood Wilderness;
(b) Eagle Cap Wilderness;
(c) Hells Canyon Wilderness;
(d) Mt. Jefferson Wilderness;
(e) Mt. Washington Wilderness;
(f) Three Sisters Wilderness;
(g) Strawberry Mountain Wilderness;
(h) Diamond Peak Wilderness;
(i) Crater Lake National Park;
(j) Kalmiopsis Wilderness;
(k) Mountain Lake Wilderness;
(l) Gearhart Mountain Wilderness.

(2) All other areas, in Oregon are initially designated Class II, but may be redesignated as provided in this section.

(3) The following areas may be redesignated only as Class I or II:

(a) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(b) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acreas in size.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Exclusions for Increment Consumption

~~340-31-125 (1) After notice and opportunity for at least one~~ public hearing held in accordance with procedures established in the Plan, the Department may exclude the following concentrations in determining compliance with a maximum allowable increase:

(a) Concentrations attributable to the increase in emissions from sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under Sections 2 (a) and (b) of the federal Energy Supply and Environmental Coordination Act of 1974 (or any superseding legislation) over the emissions from such sources before the effective date of such order;

(b) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act over the emissions from such sources before the effective date of such plan;

(c) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary activities; and

(d) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.

(2) No exclusion under subsections (1)(a) or (b) of this rule shall apply more than five years after the effective date of the order to which subsection (1)(a) refers or the plan to which subsection (1)(b) refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply ~~more than five years after the later of such effective dates~~.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Redesignation

340-31-130 (1)(a) All areas in Oregon (except as otherwise provided under rule 340-31-120) are designated Class II as of

December 5, 1974.

(b) Redesignation (except as otherwise precluded by rule 340-31-120) may be proposed by the Department or Indian Governing Bodies, as provided below, subject to approval by the EPA Administrator as a revision to the State Implementation Plan.

(2) The Department may submit to the EPA Administrator a proposal to redesignate areas of the State Class I or Class II provided that:

(a) At least one public hearing has been held in accordance with procedures established in the Plan;

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

(c) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(d) Prior to the issuance of notice respecting the redesignation of an area that includes any Federal lands, the Department has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of 60 days) to confer with the Department respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the Department shall have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the Federal Land Manager); and

(e) The Department has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(3) Any area other than an area to which rule 340-31-120 refers may be redesignated as Class III if:

(a) The redesignation would meet the requirements of section (2) of rule 340-31-130;

(b) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor, after consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not is session (unless State law provides that the redesignation must be specifically approved by State legislation) and if general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

(c) The redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

(d) Any permit application for any major stationary source or major modification, subject to review under section (1) of this rule, which could receive a permit under this section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available insofar as was practicable for public inspection prior to any public hearing on redesignation of the area as Class III.

(4) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to the EPA Administrator a proposal to redesignate areas Class I, Class II, or Class III: Provided, that:

(a) The Indian Governing Body has followed procedures equivalent to those required of the Department under section (2) and subsections (3)(c) and (d) of this rule; and

(b) Such redesignation is proposed after consultation with the state(s) in which the Indian Reservation is located and which border the Indian Reservation.

(5) The EPA Administrator shall disapprove, within 90 days of submission, a proposed redesignation of any area only if he finds, after notice and opportunity for public hearing, that such redesignation does not meet the procedural requirements of this paragraph or is inconsistent with rule 340-31-120. If any such disapproval occurs, the classification of the area shall be that which was in effect prior to the redesignation which was disapproved.

(6) If the EPA Administrator disapproves any proposed redesignation, the Department or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the EPA Administrator.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Stack Heights

~~340-31-135 (1) The degree of emission limitation required~~ for control of any air pollutant under this rule shall not be affected in any manner by:

(a) So much of the stack height of any source as exceeds good engineering practice (see rule 340-31-195), or

(b) Any other dispersion technique.

(2) Paragraph (h)(1) of this section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Review of Major Stationary Sources and Major Modifications-Source Applicability and General Exemptions

340-31-140 (1) No major stationary source or major modification shall be constructed unless the requirements of rules 340-31-145 through 340-31-185, as applicable, have been met. The requirements of rules 340-31-145 through 340-31-185 shall apply to a proposed source or modification only with respect to those pollutants for which it would be a major stationary source or major modification.

(2) The requirements of rules 340-31-145 through 340-31-185 shall not apply to a major stationary source or major modification that was subject to the review requirements of 40 CFR 52.21(d)(1) for the prevention of significant deterioration as in effect before March 1, 1978, if the owner or operator:

(a) Obtained under 40 CFR 52.21 a final approval effective before March 1, 1978;

(b) Commenced construction before March 19, 1979; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(3) The requirements of rules 340-31-145 through 340-31-185 shall not apply to a major stationary source or major modification that was not subject to 40 CFR 52.21 as in effect before March 1, 1978, if the owner or operator:

(a) Obtained all final Federal, State and local preconstruction permits necessary under the State Implementation Plan before March 1, 1978;

(b) Commenced construction before March 19, 1979; and

(c) Did not discontinue construction for a period of 18 months or more and completed construction within a reasonable time.

(4) ~~The requirements of rules 340-31-145 through 340-31-~~ shall not apply to a major stationary source or major modification that was subject to 40 CFR 52.21 as in effect before March 1, 1978, if review of an application for approval for the source of modification under 40 CFR 52.21 would have been completed by March 1, 1978, but for an extension of the public comment period pursuant to a request for such an extension. In such a case, the application shall continue to be processed, and granted or denied, under 40 CFR 52.21 as in effect prior to March 1, 1978.

(5) The requirements of rules 340-31-145, 340-31-155, 340-31-165, and 340-31-175 shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that:

(a) As to that pollutant, the source or modification is subject to the federal emission offset ruling (41 FR 55524), as it may be amended, or to regulations approved or promulgated pursuant to Section 173 of the Act; and

(b) The source or modification would impact no area attaining the national ambient air quality standards (either internal or external to areas designated as nonattainment under Section 107 of the Act).

(6) The requirements of rules 340-31-145 through 340-31-185 shall not apply, upon written request to EPA by the Governor to a nonprofit health or education institution to be located in Oregon.

(7) A portable facility which has previously received construction approval under the requirements of this section as applicable may relocate without again being subject to those requirements if:

(a) Emissions from the facility would not exceed allowable emissions;

(b) Emissions from the facility would impact no Class I area and no area where an applicable increment is known to be violated; and

(c) Notice is given to the Department at least 30 days prior to such relocation identifying the proposed new location and the probable duration of operation at such location.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Control Technology Review

340-31-145 (1) A major stationary source or major modification shall meet all applicable emissions limitations under the State Implementation Plan and all applicable emission standards and standards of performance under 40 CFR Part 60 and Part 61.

(2) A major stationary source or major modification shall apply best available control technology for each applicable pollutant, unless the increase in allowable emissions of that pollutant from the source or modification would be less than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is most restrictive.

(a) The preceeding hourly and daily rates shall apply only with respect to a pollutant for which an increment, or state or national ambient air quality standard, for a period less than 24 hours or for a 24-hour period, as appropriate, has been established.

(b) In determining whether and to what extent a modification would increase allowable emissions, there shall be taken into account no emission reductions achieved elsewhere at the source at which the modification would occur.

(3) In the case of a modification, the requirement for best available control technology shall apply only to each new or modified facility which would increase the allowable emissions of an applicable pollutant.

(4) Where a facility within a source would be modified but reconstructed, the requirements for best available control ~~technology notwithstanding section (2) of this rule, shall not~~ apply to such facility if no net increase in emissions of an applicable pollutant would occur at the source, taking into account all emission increases and decreases at the source which would accompany the modification, and no adverse air quality impact would occur.

(5) For phased construction projects the determination of best available control technology shall be reviewed, and modified as appropriate, at the latest reasonable time prior to commencement of construction of each independent phase of the proposed source or modification.

(6) In the case of a major stationary source or major modification which the owner or operator proposes to construct in a Class III area, emissions from which would cause or contribute to air quality exceeding the maximum allowable increase that would be applicable if the area were a Class II area and where no standard under 40 CFR Part 60 has been promulgated for the source category, the Department shall determine the best available control technology.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979; f. & ef. 6-22-79

Exemptions from Impact Analyses

340-31-150 (1) The requirements of rules 340-31-155, 340-31-165, and 340-31-175 shall not apply to a major stationary source or major modification with respect to a particular pollutant, if:

(a) The increase in allowable emissions of that pollutant from the source or modification would impact no Class I area and no area where an applicable increment is known to be violated; and

(b) The increase in allowable emissions of that pollutant from the source or modification would be less than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is more restrictive; or

(c) The emissions of the pollutant are of a temporary nature including but not limited to those from a pilot plant, a portable facility, construction, or exploration; or

(d) A source is modified, but no increase in the net amount emissions for any pollutant subject to a national ambient air quality standard and no adverse air quality impact would occur.

(2) The hourly and daily rates set in subsection (1)(b) of this rule shall apply only with respect to a pollutant for which an increment, or state or national ambient air quality standard, for a period of less than 24 hours or for a 24-hour period, as appropriate, has been established.

(3) In determining for the purpose of subsection (1)(b) of this rule whether and to what extent the modification would increase allowable emissions, there shall be taken into account no emission reduction achieved elsewhere at the source at which the modification would occur.

(4) In determining for the purpose of subsection (1)(d) of this rule whether and to what extent there would be an increase in the net amount of emissions for any pollutant subject to a state or national ambient air quality standard from the source which is modified, there shall be taken into account all emission increases and decreases occurring at the source since August 7, 1977.

(5) The requirements of rules 340-31-155, 340-31-165, and 340-31-175 shall not apply to a major stationary source or to a major modification with respect to emissions from it which the owner or operator has shown to be fugitive dust.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Air Quality Review

340-31-155 The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions, would not cause or contribute to air pollution in violation of:

(1) Any state or national ambient air quality standard in any air quality control region; or

(2) Any applicable maximum allowable increase over the baseline concentration in any area.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Air Quality Models

340-31-160 (1) All estimates of ambient concentrations required under paragraph (1) shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models" (OAQPS 1.2-080, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, April 1978).

(2) Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change must be subject to notice and opportunity for public comment under rule 340-31-185. Written approval of the EPA Administrator must be obtained for any modification or substitution. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models" (U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, May 1978) should be used to determine the comparability of air quality models.

(3) The documents referenced in this paragraph are available for public inspection at the Department of Environmental Quality's Air Quality Control Division headquarters office.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Monitoring

340-31-165 (1) The owner or operator of a proposed source or modification shall, after construction of the source or modification, conduct such ambient air quality monitoring as the Department determines may be necessary to establish the effect which emissions from the source or modification of a pollutant for which a state or national ambient air quality standard exists (other than non-methane hydrocarbons) may have, or is having, on air quality in any area which such emissions would affect.

(2) As necessary to determine whether emissions for the proposed source or modification would cause or contribute to a violation of a state or national ambient air quality standard, any permit application submitted after August 7, 1978, shall include an analysis of continuous air quality monitoring data for any pollutant emitted by the source or modification for which a state or national ambient air quality standard exists, except non-methane hydrocarbons. Such data shall relate to, and shall have been gathered over, the year preceding receipt of the complete application, unless the owner or operator demonstrates to the Department's satisfaction that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of a state or national ambient air quality standard.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Source Information

340-31-170 The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this rule:

(1) With respect to a source or modification to which rules 340-31-145, 340-31-155, 340-31-165, and 340-31-175 apply, such information shall include:

(a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(b) A detailed schedule for construction of the source or modification;

(c) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

(2) Upon request of the Department, the owner or operator shall also provide information on:

(a) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(b) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Additional Impact Analyses

340-31-175 (1) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Sources Impacting Federal Class I Areas — Additional Requirements:

340-31-180 (1) Notice to EPA. The Department shall transmit to the EPA Administrator a copy of each permit application relating to a major stationary source or major modification and provide notice to the Administrator of every action related to the consideration of such permit.

(2) Federal Land Manager. The Federal Land Manager and the Federal official charged with direct responsibility for management of Class I lands have an affirmative responsibility to protect the air quality-related values (including visibility) of such lands and to consider, in consultation with the EPA Administrator, whether a proposed source or modification will have an adverse impact on such values.

(3) Denial — impact on air quality-related values. The Federal Land Manager of any Class I lands may present a demonstration to the Department that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting

~~from emissions from such source or modification would not~~ cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Department concurs with such demonstration, then it shall not issue the permit.

(4) Class I variances. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from such source or modification would have no adverse impact on the air quality-related values of the Class I lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with such demonstration and he so certifies, the Department may, provided that the applicable requirements of this section are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the following maximum allowable increases over baseline concentration for such pollutants. (See Table 2)

(5) Sulfur dioxide variance by Governor with Federal Land Manager's concurrence. The owner or operator of a proposed source or modification which cannot be approved under section (4) of this rule may demonstrate to the Governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four hours or less applicable to any Class I area and, in the case of Federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the Department may issue a permit to such source or modification pursuant to the requirements of section (7) of this rule; provided, that the applicable requirements of this section are otherwise met.

(6) Variance by the Governor with the President's concurrence. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if he finds that the variance is in the national interest. If the variance is aproved, the Department may issue a permit pursuant to the requirements of section (7) of this rule; provided, that the applicable requirements of this section are otherwise met.

(7) Emission limitations for Presidential or gubernatorial variance. In the case of a permit issued pursuant to sections (5) or (6) of this rule the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period. (See Table 3)

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Public Participation

~~340-31-185 (1) Within 30 days after receipt of an applica~~tion to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted. In the event of such a deficiency, the date of receipt of the application shall be, for the purpose of this section, the date on which the Department received all required information.

(2) Within one (1) year after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner.

(a) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source or modification would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination and a copy or summary of other materials, if any, considered in making the preliminary determination.

(c) Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source or modification would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and the opportunity for comment at a public hearing as well as written public comment.

(d) Send a copy of the notice of public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: local air pollution control agencies, the chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification.

(e) Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations.

(f) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification.

(g) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section.

(h) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.

(3) The requirements of this rule shall not apply to any major stationary source or major modification which rule 340-31-150 would exempt from the requirements of rules 340-31-155, 340-31-165, and 340-31-175, but only to the extent that, with respect to each of the criteria for construction approval under the State Implementation Plan and for exemption under rule 340-31-150, requirements providing the public

with at ~~least as much participation in each material determina~~tion as those of this rule have been met in the granting of such construction approval.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Source Obligation

340-31-190 (1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this section who commences construction after the effective date of these regulations without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

(2) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed with a reasonable time. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

(3) Approval to construct shall 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.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 18-1979, f. & ef. 6-22-79

Stack Heights — Modeling Limits

340-31-195 (1)(a) The degree of emission limitation required for any air pollutant or air contaminant shall not be ~~affected in any manner by~~:

(A) The use of a stack height that exceeds good engineering practice, or

(B) The use of any other dispersion technique.

(b) The preceding sentence shall not apply with respect to stack heights in existence before December 31, 1970, or dispersion techniques implemented before that date.

(2) The Department shall give public notice about stack heights that exceed good engineering practice prior to issuing an air contaminant discharge permit.

(3) Definitions. As used in OAR 340-31-110 to 340-31-112, unless otherwise required by context:

(a) "Dispersion technique" means any control of air pollutants varying with atmospheric conditions including but not limited to supplementary or intermittent control systems and excessive use of enhanced plume rise.

(b) "Good engineering practice stack height" means that stack height necessary to ensure that emissions from the stack do not result in excessive concentrations of any air pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies, and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles and shall not exceed any of the following as appropriate:

(A) 30 meters, for stacks influenced by structures or terrain;

(B) $H_G = H + 1.5 L$

where H_G = good engineering practice stack height;
H = height of structure or nearby structure;
L = lesser dimension (height or width) of the structure or nearby structure; for stacks influenced by structures;

(C) Such height as an owner or operator of a source demonstrates is necessary through the use of field studies or ~~fluid models after notice and opportunity for public hearing~~.

Stat. Auth.: ORS Ch. 468
Hist: DEQ 14-1979, f. & ef. 6-22-79

VICTOR ATIYEH
GOVERNOR

Department of Environmental Quality

522 SOUTHWEST 5TH AVE., PORTLAND, OREGON

MAILING ADDRESS: P.O. BOX 1760, PORTLAND, OREGON 97207

Prepared: March 2, 1981
Hearing Date: April 24, 1981

NOTICE OF PUBLIC HEARING

A CHANCE TO BE HEARD ABOUT:

Proposed Revision of New Source Review and
Plant Sites Emission Limit Rules

The Department of Environmental Quality (DEQ) is considering revisions to the existing rules regulating the construction of new sources and the modification of existing sources of air pollution. The revisions to the New Source Review rules are necessary to bring the Oregon State Implementation Plan into accord with the Clean Air Act Amendments of 1977. Revisions are also being proposed for the Plant Site Emission Limit rule to provide more specific criteria for establishing emission limits.

A hearing on this matter was originally scheduled for February 18, 1981, but was cancelled to allow additional time for review of the proposed rules. Some changes were made in the originally proposed Emission Reduction Banking and Plant Site Emission Limit rules. The hearing has been rescheduled and will be held before the Environmental Quality Commission at its April 24, 1981, meeting.

WHAT IS THE DEQ PROPOSING?

Interested parties should request a copy of the complete proposed rule package. Some highlights are:

** New Source Review and Prevention of Significant Deterioration requirements are combined into one rule.

** Requirements for new source offsets, Prevention of Significant Deterioration analysis, and banking of emission reductions are established.

** The Plant Site Emission Limit Rule is revised to provide more specific procedures for establishing emission limits.

WHO IS AFFECTED BY THIS PROPOSAL:

Major new sources and major modifications of sources of air pollution and existing sources of air pollution.

HOW TO PROVIDE YOUR INFORMATION:

Written comments should be sent to the Department of Environmental Quality, Air Quality Division, Box 1760, Portland, Oregon 97207, and should be received prior to April 23, 1981.

Oral and written comments may be offered at the following public hearing:

City	Time	Date	Location
Portland	10:00 a.m.	April 24, 1981	Oregon Department of Fish and Wildlife Conference Room 506 SW Mill

The Commission may also consider adoption of the rules at the same meeting.

WHERE TO OBTAIN ADDITIONAL INFORMATION:

Copies of the proposed rules may be obtained from:

Lloyd Kostow
DEQ Air Quality Division
Box 1760
Portland, Oregon 97207
229-5186
toll-free 1-800-452-7813

LEGAL REFERENCES FOR THIS PROPOSAL:

This proposal amends OAR 340-20-190 to 198, OAR 340-30-110, OAR 340-32-005 to 025 and OAR 340-31-105 to 195. It is proposed under authority of ORS Chapter 468, including sections 020 and 295.

LAND USE PLANNING CONSITENCY:

The Department has concluded that the proposals do affect land use.

With regard to Goal 6 (air, water, and land resources quality) and Goal 9 (to diversify and impose the economy of the state), the rules are designed to enhance and preserve air quality in the affected area while allowing economic growth, and are considered consistent with the goals.

Goal 11 (public facilities and services) is deemed unaffected by the proposals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashions as are indicated for testimony in this NOTICE OF PUBLIC HEARING.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any apparent conflict brought to our attention by local, state, or federal authorities.

FURTHER PROCEEDINGS:

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted regulations will be considered for submittal to the U.S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's action could come at the same April 24, 1981, meeting, or be deferred to the June 5 meeting.

A Statement of Need and Fiscal Impact Statement are attached to this notice.

AQ0042(n)(1)

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(2), this statement provides information on the intended action to amend a rule.

Legal Authority

Oregon Revised Statutes Chapter 468, including Sections 020 and 295.

Need for Rule

These revisions to the New Source Review and Plant Site Emission Limit Rules are required to correct deficiencies identified by the U.S. Environmental Protection Agency (EPA) and to bring the rules into compliance with Clean Air Act Requirements.

Principal Documents Relied Upon

1. Federal Clean Air Act P.L. 95-95, Amendments of August 7, 1977, Part C Sections 160 through 169 and Part D Sections 171 through 173.

2. Final Rulemaking on approval of Oregon State Implementation Plan, 40 CFR 52, published on June 24, 1980 (45 FR 42265).

3. Prevention of Air Quality Deterioration, 40 CFR 51.24 published on June 19, 1978, and revised on August 7, 1980 (45 FR 52676).

4. Alabama Power Company, et al, Petitioners vs. Environmental Protection Agency, et al, Respondents, Sierra Club, et al, Intervenors; (No. 78-1006) U.S. Court of Appeals for the District of Columbia, Decided December 14, 1979.

5. Emission Offset Interpretative Rule, 40 CFR 51 Appendix S, published on January 16, 1979 (44 FR 3282).

Fiscal Impact Statement

The fiscal impact of these proposed rule revisions on major sources of air pollution is expected to be minimal. Some additional resource impacts may be expected on DEQ to adminster the offset/banking provisions and to assume the Prevention of Significant Deterioration program from EPA.

AQ0042.A (n) (1)