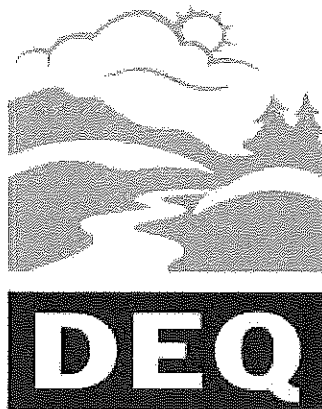


**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS 11/10/1992**



**State of Oregon
Department of
Environmental
Quality**

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Notice

Special Telephone Conference Call Meeting

ENVIRONMENTAL QUALITY COMMISSION

Tuesday, November 10, 1992
8:30 a.m.

The Commission will meet by telephone conference call for the purpose of taking final action on Department recommendations to adopt proposed rules as follows to satisfy requirements of the Federal Clean Air Act:

- A. New Emission Statement Rule for Ozone Nonattainment Areas
- B. Amendments to New Source Review (NSR) Rule Requirements for all Nonattainment Areas

The public may attend the conference call at the following location:

Conference Room 3a
Department of Environmental Quality Offices
811 S. W. 6th Avenue
Portland, Oregon 97204

Approved _____
Approved with Corrections _____

Minutes are not final until approved by the EQC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the Special Telephone Conference Call Meeting

Amendments to New Source Review and Adoption of Emission Statement Rules as an
Amendment to the Air Quality Implementation Plan

November 10, 1992

The Environmental Quality Commission special telephone conference call meeting was convened at about 8:30 a.m. on Tuesday, November 10, 1992. Participating in the conference call were Chair Wessinger, Vice Chair Emery Castle, Commissioners Whipple and McMahan. Commissioner Lorenzen was not available. Staff members present included Director Fred Hansen and Steve Greenwood, Brian Finneran and John Kowalczyk of the Air Quality Division. The public could participate by speaker phone in Conference Room 3A of the Department of Environmental Quality offices at 811 S. W. Sixth Avenue, Portland, Oregon.

Director Hansen provided a brief explanation about why the conference call was needed. He indicated that the 1990 Clean Air Act (CAA) deadlines compel the Department to adopt rules and requirements. Although guidance was slow to come, the November 15 deadline still remains for rule adoption.

Commissioner Castle said he did not have any trouble with the staff report and proposed rules.

Mr. Finneran provided a brief summary of the report which included new offset requirements and requirements for emission statements for Volatile Organic Compounds (VOCs) and Oxides of Nitrogen (NO_x) in ozone for nonattainment areas. He said the proposed rules are similar to current rules in nonattainment areas which require a 10 percent emission reduction.

Chair Wessinger asked about offsets. Mr. Finneran explained that new sources obtain credits from existing sources. He said the offsets are the primary mechanism for allowing new development in nonattainment areas. Mr. Finneran said industry had been concerned whether a new source would be able to receive offset credits. However, the CAA requires

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that reductions used for offsets must be actual reductions. Director Hansen added that actual emissions removed would be used as offsets.

Commissioner Castle asked what attitude industries had toward this rule and what industries were affected. Mr. Kowalczyk replied that all major industries, that is, pulp and paper, electronics and others represented by Associated Oregon Industries (AOI) would be affected by this rule. He said the Department reviewed the rule with industry and indicated that they fully understood the implications of the rule and that requirements for actual offsets needed to be included.

Mr. Kowalczyk said the Department is working to achieve attainment designation so that the offset program is not needed. Mr. Greenwood added that the offset provision of the CAA was to obtain cleaner air.

Commissioner Whipple asked about nonattainment areas. Mr. Finneran indicated that nonattainment areas were the PM₁₀ and CO areas throughout the state. She asked if those areas outside the metropolitan area had been informed about the proposed rule. Mr. Finneran said he had talked with the Medford Chamber of Commerce. Commissioner Whipple asked if those communities were taking similar steps as the metropolitan areas and if progress was being made. Director Hansen replied that the nonattainment areas were making progress especially in the reduction of woodstove emissions. Mr. Greenwood said that the Klamath County Commissioners were aware of the need to reach attainment.

Director Hansen said that in nonattainment areas the CAA requires:

- Existing sources to implement reasonable available control technology (RACT); New or expanding sources to implement lowest achievable emission rates (LAER) without regard to cost.
- Maintenance of an offset program.

Commissioner Castle moved that the proposed rule be approved; Commissioner Whipple seconded the motion. The motion was unanimously passed with four yes votes.

Other Business

The Commission agreed to the 1993 EQC meeting schedule as distributed earlier. The dates reserved for meetings are as follows:

January 28-29, 1993

March 5, 1993

April 22-23, 1993

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June 10, 1993
July 22-23, 1993
September 9-10, 1993
October 28-29, 1993
December 9-10, 1993

There was no further business and the telephone conference call meeting was adjourned.

Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item _
November 10, 1992 Meeting

Title:

Amendments to new source review and adoption of emission statement rules as an amendment to the Air Quality Implementation Plan

Summary:

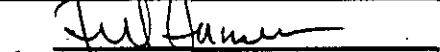
The Clean Air Act Amendments of 1990 require (by no later than November 15, 1992) states to tighten their offset requirements contained in new source review rules and to adopt requirements for major industrial sources to submit certified information on their actual emissions. EPA has not finalized guidance to states on these two issues. However, this fact does not remove the jeopardy of law suits and sanctions provided by the Clean Air Act. The Department held public hearings on draft rules related to new source review amendments and emission statements patterned after draft EPA guidance. The Department's goal had been to have our rules parallel those of EPA. The Department received public testimony that the offset revisions were far more stringent and limiting than necessary and the emission statement requirements were far more broad and burdensome than provided for in the Act. After further review and consultation with EPA, the Department has modified the rule proposals. The Department proposes to recognize the current rule requirements for offsets as meeting the new Act requirements for offsets to be based on actual emission reductions. With respect to reporting requirements, the Department concludes that the Act provisions require a more limited reporting requirement than originally proposed. The rules have been modified accordingly.

Department Recommendation:

Adopt the amendments to the new source review rule and new emission statement rule as an amendment to the State Implementation Plan


Report Author


Division Administrator


Director

November 4, 1992

State of Oregon
Department of Environmental Quality

Memorandum

Date: November 2, 1992

To: Environmental Quality Commission
From: Fred Hansen, Director 
Subject: Telephone Conference Call Meeting, November 10, 1992, EQC Meeting

Adoption: Amendments to New Source Review Rules (NSR), OAR 340-20-220 to -276, and proposed new rule requiring Emission Statements in Ozone Nonattainment Areas, as a revision to the Oregon State Implementation Plan (SIP).

Background

On July 21, 1992, the Director authorized the Air Quality Division to proceed with a rulemaking hearing on proposed rules which would amend the Department's New Source Review Rules and propose a new rule requiring Emission Statements in ozone nonattainment areas.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on July 17, 1992. Notice was mailed to the mailing list of those persons who have asked to be notified of rulemaking actions, and to a mailing list of persons known by the Department to be potentially affected by or interested in the proposed rulemaking actions.

Public Hearings were held on August 19, 1992, in Medford, and August 20, 1992, in Portland, with Brian Finneran serving as Hearings Officer. Written comments were received through August 28, 1992. The Hearings Officer's Reports (Attachments F and G) summarize the oral and written testimony received during the public comment period on the NSR Amendments and the proposed Emission Statement rule, and the Department's response to the testimony. Based upon evaluation of the comments on these proposals, modifications to the initial rulemaking proposal are being recommended by the Department. These modifications are also summarized in Attachments F and G.

These amendments and new rule were initially scheduled for rule adoption at the October 16th EQC meeting. The Department postponed proceeding with rule adoption to provide additional time to review the numerous issues raised on both proposals during the public comment process. A meeting was held on October 9th with those persons who provided testimony on both proposals to discuss the issues.

Issue this Proposed Rulemaking Action is Intended to Address

The 1990 Clean Air Act Amendments (CAAA) revised the requirements for areas which have not attained national ambient air quality standards (nonattainment areas), and identifies revisions all states must make to their state implementation plans. In focusing on requirements for major new and modified sources in nonattainment areas, the Act establishes emission offsets as the primary regulatory mechanism for accommodating industrial growth. It requires that emission increases from new or modified sources be offset by actual emission reductions. Congressional intent was to prevent the use of "paper" emission reductions which might occur from basing offsets on allowable or permitted emissions, that could result in airshed emissions which exacerbate the nonattainment problem.

The Act also requires offsets in ozone nonattainment areas to be at a 1.1 to 1 ratio (a net 10 percent emissions reduction) for new or modified sources, in order to ensure reasonable further progress toward attainment of air quality standards. In addition to sources of Volatile Organic Compounds (VOCs), new and modified major sources of Oxides of Nitrogen (NOx) are also subject to this offset ratio, since NOx is a precursor compound which forms ozone.

The Act eliminates the use of growth margins (i.e., previous emission reductions dedicated to allow for future industrial growth without the use of offsets) in effect prior to the effective date of the '90 CAAA in nonattainment areas. These growth margins were allowed by the 1977 Clean Air Act since they represented emission control of existing sources beyond that needed to demonstrate attainment. However, the 1990 CAAA no longer views these growth margins as ensuring reasonable further progress, and in setting tighter requirements for nonattainment areas has eliminated these provisions in favor on emission offsets. This will effectively eliminate the remaining growth margin for new and modified VOC sources in the Portland area.

NSR amendments are required by the 1990 Clean Air Act to be submitted by states to EPA by November 15, 1992. Section 179 of the CAAA describes actions to be taken by EPA for states which fail to submit an amended SIP by the statutory deadline. These actions involve sanctions which would affect federal highway funds and/or require emission offsets for new and modified sources at a 2 to 1 rate.

Another requirement of the Act is the annual submittal of Emission Statements in ozone nonattainment areas. Section 182 of the Act requires that for marginal ozone nonattainment areas like Portland, stationary sources of VOC and NOx must report their actual emissions to the state. The data submitted by these sources is intended to be used for tracking reasonable further progress in meeting national ambient air quality

standards. The Act allows states the option of exempting sources under 25 tons per year of VOC or NOx from this emission reporting requirement, and the Department has proposed to apply this exemption based on the permitted emissions (i.e., the Plant Site Emission Limit or PSEL) of each source. The Act contains a deadline for states to submit to EPA an Emission Statement rule by November 15, 1992.

Authority to Address the Issue

Statutory authority for adopting this rule is under ORS 468.020 and 468A.025, and represents a revision to OAR 340-20-047 (State of Oregon Clean Air Act, Implementation Plan).

Process for Development of the Rulemaking Proposal (including alternatives considered)

The Department has relied primarily on Sections 172, 173, and 182 in Part D, Title I of the Act in preparation of the NSR Amendments. In addition the Department has referred to an EPA issued a guidance document entitled "General Preamble for Nonattainment Provisions of the Clean Air Act". The Department based its proposed Emission Statement rule primarily on Section 182 of the Act, and to a lesser degree, on non-binding guidance from EPA entitled "Guidance on Emission Statements". For the purpose of establishing consistent emission reporting requirements, the Department has referenced actual emission determination procedures in its new Interim Emissions Fee Rules, adopted on January 23, 1992.

Prior to public hearing several environmental and industry representatives were invited to a rule review meeting to discuss and ensure understanding of the NSR Amendments and proposed Emission Statement rule. Two industry representatives attended this meeting.

Summary of Rulemaking Proposal Presented for Public Hearing and Discussion of Significant Issues Involved.

The effect of the proposed NSR amendments is primarily limited to major new sources and major modifications of existing sources in the Portland Ozone Nonattainment Area. As mentioned above, the amendments will eliminate the VOC growth margin for the Portland Ozone Nonattainment Area, and require new and modified major sources of VOC and NOx in this area to obtain offsets at a 1.1 to 1 ratio.

In regards to the Clean Air Act requirement for offsets based on actual emission reductions, the Department initially patterned its draft rules after EPA guidance. At the public hearings industry representatives had a strong objection to the proposed offset

requirements on the grounds that they were far more stringent than necessary. Industry felt offsets should be based on permitted or allowed emissions. After further consideration the Department deleted the new offset language, in favor of retaining the existing offset rule requirements which are based on actual emission reductions, and therefore should meet the new Act requirements. The Department did agree to change the time period for offsets to take effect, from one year to two years, which is consistent with EPA guidance.

The Emission Statement rule is relatively limited in scope, in that it addresses only industrial VOC and NO_x sources in the Portland area which emit over 25 tons per year of either of these pollutants. The proposed rule requires these sources to provide summer ozone season emission data from the plant site, and to certify the accuracy of the data. NO_x sources over 25 tons would either report actual emissions by estimating emissions based on established emission factors. Most VOC sources over 25 tons are already required by permit to use Material Balance techniques to calculate actual emissions.

During the public hearing process industry representatives also expressed concern about the reporting requirements contained in this draft rule. The Department had again patterned this rule after EPA guidance, which industry argued was far broader than the requirements stated in the Act. Following the hearings the Department reviewed this concern with industry, and agreed that the Act's requirements are limited to only reporting actual ozone season data, and not applicable to other data reporting provisions identified in federal guidance. The final rule version is generally understood and acceptable to industry, however EPA has not rendered an opinion on the revised proposal. The Department believes its position is consistent with the Clean Air Act, and therefore salable to EPA.

Summary of Significant Public Comment and Changes Proposed in Response

The comments the Department received on the NSR Amendments were as follows:

I. Industry Comments on NSR Amendments:

1. Plant Site Emission Limits (PSELs) can be used for offsets, even though they represent "allowable" emissions reductions rather than actual, since they are part of the SIP attainment demonstration. Section 173(c) of the 1990 Clean Air Act clearly states that offsets must be based on "actual" emissions. The Department's existing offset rule is consistent with the Act, in that emission reductions for offsets 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. (As a result of the additional meeting held on October 9th, as discussed in #6, the Department did agree to amend this one year period to two years, based on guidance from EPA that 2 years is acceptable.) Basing offsets on PSEL's could allow increases in airshed emissions thereby worsening the nonattainment condition. This would clearly be in conflict with Congress's intent of not allowing "paper" offsets that might result in exacerbation of nonattainment conditions.

As industry has been subject to the existing offset and banking provisions in the current NSR rules for more than 10 years, and given the likelihood that EPA will find these rules consistent with the requirements in the Act, the Department recommends retaining the current rule provisions, rather than add new provisions as initially proposed.

2. The Department should defer submitting NSR amendments by the November 15, 1992 CAAA deadline, and instead provide EPA with a commitment to develop rules after specific NSR rules are developed by EPA. If the Department does not submit NSR rule amendments by the Clean Air Act deadline it subjects itself to the federal sanctions listed under Section 179 of the '90 CAAA. Federal NSR amendments are not expected to be promulgated for another 1 to 2 years.

3. The Department should defer adoption of offset requirements for sources of nitrogen oxides (NOx), since the CAAA is not clear as to whether this is required in marginal ozone nonattainment areas such as Portland. A workable NOx offset trading system should be established prior to imposing NOx offset requirements. Section 182(f) of the Act requires NOx sources to be subject to the same requirements as VOC sources in all ozone nonattainment areas. The Department does not see any ambiguity in this language in applying the offset ratio of 1.1 to 1 in marginal ozone nonattainment areas to VOC and NOx sources. The Department has determined that NOx reductions in the Portland Ozone Nonattainment Area are important. In terms of establishing a workable NOx offset trading system, the Department can provide new NOx sources and major modifications of existing NOx sources with assistance in identifying and quantifying NOx emission reductions from existing sources to be used for offset purposes.

5. All of Department's emission trading rules (offsets, banking, netting and bubbling) need clarification and should be revised simultaneously. A more comprehensive approach to emission trading is necessary to help industry plan for future growth under the Act. The Department acknowledges that a comprehensive review is appropriate, given the newer, more stringent provisions in the Act for industrial emissions growth in nonattainment areas. However, this need does not nullify the obligations of the state to reflect Clean Air Act requirements within the time frame of the Act. Given the time constraints in meeting the Acts' November 15, 1992

deadline, the Department was not able to undertake a more comprehensive review and make revisions. Such a review is planned for early 1993.

6. Due to the extent of public comment and impact of the proposed rules, the Department should hold additional public hearings. The Department held an additional meeting on October 9, 1992, with those who commented on the proposed amendments, in order to respond to the numerous issues that were raised. With regard to the NSR Amendments, the Department explained how the Act clearly states that "actual" emissions must be used in nonattainment areas, and that basing offsets on PSEs or "allowable" emissions could allow increases in actual airshed emissions, thereby worsening the nonattainment condition. The Department further explained that the current state requirements for offsets satisfy the requirement for "actual" emission reductions by requiring emission offsets to be "contemporaneous", that is, the emission reductions must "must take effect prior to the time of startup but not more than one year prior to the submittal of a complete permit application by the new source or modification". There was general agreement with this interpretation, but the Department was encouraged to change the rule to allow a two year period for offsets, rather than one year. After reviewing this suggestion the Department agreed it would be consistent with EPA guidance and has made this change.

Other issues discussed related to the NSR Amendments involved whether the Department should defer submitting these amendments by the federal deadline of November 15, 1992; whether all of the Department's emission trading rules (offsets, banking, netting, and bubbling) should be revised simultaneously; and discussion of minor corrections needed to the NSR rules. Several minor rule changes were identified at the meeting. (All of these issues are addressed separately in this report.)

II. EPA Comments:

1. In order to implement the new offset requirements in the CAAA, the definition of "actual emissions" should be revised to allow for time periods other than the 1977-78 baseline. The Department believes existing rule language in OAR 340-20-260(5) currently requires offsets to contemporaneous, as discussed in #2 above. This satisfies the CAAA requirement that offsets in nonattainment areas be based on actuals. Based on the additional meeting held on October 9th, the Department did agree to amend the one year period to two years.

2. The Department should either delete the "baseline period" definition entirely, per the above discussion, or amend it to its original language, adding wording to clarify what other use is intended. The Department does not concur with EPA's suggestion that this definition could be deleted entirely, but does agree it should be amended to its

original language. The reference to the pollutants listed in the first sentence has been deleted. This restores the definition to the original version prior to a rule-making action earlier this year regarding adoption of the NOx PSD Increment, which mistakenly added this language.

3. Miscellaneous EPA comments:

a. 340-20-225 (definitions). In definition (17), "nonattainment area" needs to include areas designated by EPA, and in (26) add sources of NOx to "significant air quality impact". The Department agrees and has made this change.

b. 340-20-255. In (1)(a) revise to read "in attainment and unclassified areas". Revise (3) to read "Emission reductions which are required pursuant to any state or federal regulation, or any permit condition, shall not be used for offsets." To (4) change "new source" to "new major source". The Department agrees and has made these changes.

c. 340-20-260. In (2) change "general air basin" to "nonattainment area", and in the next sentence add "nitrogen dioxide and lead" to the list. In (4) replace "respirable particulate" with "PM10". In (5) reinstate the deleted sentence, since the reference to banked credits is germane. The Department agrees and has made these changes. In subsection (5), the Department reinstated the deleted sentence and clarified the reference to the banking rule. (This sentence was deleted initially only because this reference was unclear.)

4. Other EPA comments. EPA identified 17 other rule corrections which were not directly related to the Department's proposed NSR amendments, and therefore will be addressed as part of the comprehensive rule review in early 1993.

The comments the Department received on the proposed Emission Statement rule were as follows:

1. The rule should not be adopted as proposed, in that it is not consistent with the Act, in that the only the reporting of actual emissions is stated in Section 182 (a)(3)(B) of the Act. After careful review of Section 182 of the Act and EPA's non-binding guidance on Emission Statements, the Department concurs that the Act only requires the reporting of actual emissions. The purpose of requiring Emission Statements from VOC & NOx sources over 25 tons in a ozone nonattainment area is for tracking emissions during the summer ozone season, based on the Clean Air Act's goal of ensuring reasonable further progress in meeting the ozone air quality standard. EPA's Guidance on Emission Statements indicates its intent to incorporate all reporting

requirements from other parts of the Act, such as the annual AIRS submittal and compliance data, into the emission statement rule. This would require reporting of additional information such as operating data, control equipment efficiency, and process rate data, which the Department does not believe is necessary for the tracking of summertime ozone emissions, and is not supported by the emission statement provisions of the Act. Once an area demonstrates attainment and is reclassified by EPA, the emission statement requirement, like the various offset ratio requirements also mentioned in Section 182 of the Act, are eliminated. Therefore, it would not be reasonable to incorporate other reporting requirements which are intended to remain in effect indefinitely, in a rule which becomes inapplicable when an area is redesignated to attainment. The Department has therefore revised the rule to require basically reporting of average weekday emissions during the ozone season, and that this information be kept at the plant site and submitted to the Department in part or whole if needed to resolve any discrepancies identified by the Department. Also included is the reporting of emission factors in order to provide for quality control of data.

2. EPA's guidance is non-binding, therefore DEQ should either postpone adoption until legally binding regulations are issued by EPA, or adopt a much simpler Emission Statement rule. Even though the Emission Statement guidance is a non-binding document, the state is bound to comply with the November 15, 1992 CAAA deadline. Failure to meet the deadline would subject the Department to federal sanctions.

3. The rule represents a significant reporting burden on industry, by requiring actual emissions be reported. The Department has simplified the proposed rule as discussed in #1 above, so that reporting operating and process rate data is no longer required. Also, since proposing this rule the Department has been informed by EPA that the reporting of "estimated" actual emissions using EPA emission factors will be acceptable for all Emission Statements, in lieu of continuous monitoring and source testing. Therefore, in addition to the revisions outlined in #1, the Department has revised section 340-20-450 (3) the proposed rule to indicate that emissions can be estimated using EPA emission factors.

4. The 25 ton exemption for sources should be based on actual not permitted emissions. The 1990 Clean Air Act Amendments gives states the option of exempting sources with actual emissions less than 25 tons per year. However, in order to do this actual emissions would have to be determined, and since actual emissions can vary from year to year, this would require further demonstration that a given source's actual emissions fall below this exemption limit each year. In choosing to apply this option, the Department believes a much easier and straightforward approach is to use permitted

(PSEL) levels, in order to avoid any confusion as to which sources are above or below the 25 ton limit. To address cases where actual emissions may exceed permitted levels because of such factors as upsets and breakdowns (i.e., excess emissions), a "catch all" provision must be added to the rule. The Department has added new language to section 340-20-450 (2) clarifying that these sources shall also be subject to the Emission Statement rule.

5. The 25 ton exemption needs to be clarified as it applies to unpermitted sources and sources without a PSEL. Clearly the rule was not intended to apply to unpermitted sources, or to small VOC and NO_x sources with a Minimal Source permit (sources under 10 tons for which no PSEL is specified). The Department agrees that rewording the rule to read as applying to sources with a PSEL over 25 tons rather than exempting sources with a PSEL under 25 tons, would better clarify this matter, and has made this change.

6. The rule should state that if either VOC or NO_x is over 25 tons, then both emissions should be reported. This provision is stated in EPA's non-binding guidance on Emission Statements. The Department disagrees with EPA that this is a necessary requirement under the Clean Air Act. The option of sources not reporting emissions under 25 tons is stated in the Act, and is based on the concept that the state will provide EPA with estimates of actual emissions from those sources exempted from the rule, as part of the requirement for states to submit base year and periodic emission inventories. Therefore, the Department believes that in cases involving a source emitting both VOC and NO_x, where one is over 25 tons and the other is under 25 tons, the rule should be consistent in requiring only the emissions above the 25 tons to be subject to this rule.

7. The rule should state that emissions from exempted sources will be included in the base year inventory by DEQ. EPA has commented that the Department's proposed rule does not state this. The Department does not believe it is necessary for this to be stated in rule form, and intends instead to simply state this in the SIP revision submittal letter, which EPA has indicated is acceptable.

8. Sources subject to the rule should not have to report emissions for the first year (1992), since this is not specified in the Act. The 1990 CAAA does state in Section 182 (a)(3)(B) that the first Emission Statement "shall be submitted within 3 years after the date of enactment" of the Act by the source. This means that by no later than November 15, 1993, the first statement must be submitted. EPA's guidance on Emission Statements states that this means reporting of actual emissions for the previous calendar year, which for the first submittal would be calendar year 1992. Since the rule allows estimating actuals, this first submittal is not expected to cause any undue hardship.

9. Due to the extent of public comment and impact of the proposed rule, the Department should hold additional public hearings. The Department held an additional meeting on October 9, 1992, with those who commented on the proposed amendments, in order to respond to the numerous issues that were raised. Regarding the proposed Emission Statement rule, the Department explained that the state is again bound to comply with the Act's November 15 deadline. There was agreement on the need for the Department on meeting the federal deadline, however, several specific changes were suggested to the rule: (1) require only submittal of emissions information, allowing the source to keep other information on operating data, control equipment information, and process rate data at the plant site (see # 1 above); (2) clarify how actual emissions are to be estimated; and (3) revise the certification requirement. The Department agreed and has made these changes.

Summary of How the Proposed Rule Will Work and How it Will be Implemented

The Department does not anticipate any appreciable changes in terms of implementation of these NSR Amendments, since no significant changes were proposed to the existing offset rule language, other than changing the time period for actual emission reductions from one year to two. However, should applications for offsets by new major sources and modified sources increase in the Portland Ozone Nonattainment Area, the elimination of the VOC Growth Margin for Portland may require some additional assistance to sources in identifying available emission reductions from existing sources that can be used for offsets in order to accommodate any industrial growth.

The new Emission Statement rule should not result in significant workload increase for staff. Emission reports will need to be totalled each year to determine if reasonable progress toward attainment is being made. Following adoption of this rule, VOC and NOx sources permitted over 25 tons per year in the Portland area will be notified by letter of this reporting requirement, and informed to submit Emission Statements by February 28th or the due date the sources' annual permit report. The Department will supply sources with guidance and an example on how to submit this information, informing sources to attach this information with the annual permit report. The first Emission Statement would need to indicate actual emissions for the calendar year 1992. Ultimately, the emission statement reporting requirement will be incorporated into Title V permits when they are first issued.

Recommendation for Commission Action

It is recommended that the Commission adopt the NSR Amendments and new rule regarding Emission Statements as presented in Attachment A of the Department Staff Report for the agenda item.

Attachments

- A. Proposed Rule
Supporting Procedural Documentation:
- B. Rulemaking Statements (Statement of Need)
- C. Fiscal and Economic Impact Statement
- D. Public Notice
- E. Land Use Evaluation Statement
- F. Hearing Officer's Report/Response to Comments
- G. Hearing Officer's Report/Response to Comments
- H. Other Attachments:
Written Comments available upon request

Approved:

Section: _____

Division: _____

Report Prepared By: Brian Finneran
Phone: 229-6278
Date Prepared: November 1, 1992

- FINAL -

NEW SOURCE REVIEW AMENDMENTS**New Source Review****Applicability**

340-20-220 (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 340-20-280 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 340-20-032), Air Contaminant Discharge Permits (OAR 340-20-140 to 340-20-185), Emission Standards for Hazardous Air Contaminants (OAR 340-25-450 to 340-25-480), and Standards of Performance for New Stationary Sources (OAR 340-25-505 to 340-25-545).

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81

Definitions

340-20-225 (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. 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:

(a) the ambient concentration level for sulfur dioxide and total suspended particulate matter 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.

(b) the ambient concentration level for nitrogen oxides which existed in an area during the calendar year 1988.

(3) "Baseline Period" means either calendar years 1977 or 1978 ~~{for sulfur dioxide or total suspended particulate matter and calendar year 1988 for nitrogen oxides}~~. 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) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-31-120.

(6) "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.

(7) "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.

(8) "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the Administrator of the U.S. Environmental Protection Agency which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(9) "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.

(10) "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.

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

(12) "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.

(13) "Growth Increment" means an allocation of some part of an airshed's capacity to accommodate future new major sources and major modifications of sources.

(14) "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects: 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 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.

(15) "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 (25)) 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

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

(16) "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 (25)).

(17) "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 or the Environmental Protection Agency.

(18) "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.

(19) "Particulate Matter Emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods.

(20) "PM₁₀ Emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by applicable reference methods.

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

(22) "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.

(23) "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.

(24) "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.

(25) "Significant emission rate" means:

(a) 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

<u>Significant Pollutant</u>	<u>Emission Rate</u>
(A) Carbon Monoxide	100 tons/year
(B) Nitrogen Oxides	40 tons/year
(C) Particulate Matter*	25 tons/year
(i) TSP	25 tons/year
(ii) PM ₁₀	15 tons/year
(D) Sulfur Dioxide	40 tons/year
(E) Volatile Organic Compounds	40 tons/year
(F) Lead	0.6 ton/year
(G) Mercury	0.1 ton/year
(H) Beryllium	0.0004 ton/year
(I) Asbestos	0.007 ton/year
(J) Vinyl Chloride	1 ton/year
(K) Fluorides	3 tons/year
(L) Sulfuric Acid Mist	7 tons/year
(M) Hydrogen Sulfide	10 tons/year
(N) Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(O) Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

NOTE: For the ~~nonattainment portions of the~~ Medford-Ashland Air Quality Maintenance Area, and the Klamath Falls Urban Growth Area, the Significant Emission Rate{s} for particulate matter ~~and volatile organic compounds are~~ is defined in Table 2.

(b) For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate;

(c) 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/m³ (24 hour average) shall be deemed to be emitting at a significant emission rate (see Table 2).

Table 2
(OAR 340-20-225)

**Significant Emission Rates for the ~~Portions of the~~ Medford-Ashland Air Quality
Maintenance Area and the Klamath Falls Urban Growth Area**

<u>Air Contaminant</u>	<u>Annual</u>		<u>Day</u>		<u>Hour</u>	
	<u>Kilograms</u>	<u>(tons)</u>	<u>Kilogram</u>	<u>(lbs)</u>	<u>Kilogram</u>	<u>(lbs)</u>
Particulate Matter (TSP or PM ₁₀)	4,500	(5.0)	23	(50.0)	4.6	(10.0)
Volatile Organic Compound (VOC)	18,000	(20.0)	91	(200)		

NOTE: * For the Klamath Falls Urban Growth Area, the Significant Emission Rates for particulate matter apply to all new or modified sources for which permit applications have not been submitted prior to June 2, 1989; particulate emission increases of 5.0 or more tons per year must be fully offset, but the application of lowest achievable emission rate (LAER) is not required unless the emission increase is 15 or more tons per year. At the option of sources with particulate emissions of 5.0 or more but, less than 15 tons per year, LAER control technology may be applied in lieu of offsets.

Table 3
(OAR 340-20-225)

**Significant Air Quality Ambient Air Quality Impact
Which is Equal to or Greater Than:**

<u>Pollutant</u>	<u>Pollutant Averaging Time</u>				
	<u>Annual</u>	<u>24-Hour</u>	<u>8-Hour</u>	<u>3-Hour</u>	<u>1-Hour</u>
SO ₂	1.0 ug/m ³	5 ug/m ³		25 ug/m ³	
TSP or PM ₁₀	.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

(26) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than those set out in Table 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.

(27) "Significant Impairment" occurs when visibility impairment in the judgment of the Department interferes with the management, protection, preservation, or enjoyment of the visual experience of visitors within a Class I area. The determination must be made on a case-by-case basis considering the recommendations of the Federal Land Manager; the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(28) "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. This includes all the pollutant emitting activities which belong to the same industrial grouping, or Major Group (i.e., which have the same two-digit code) as described in EPA's Standard Industrial Classification (SIC) Manual (U.S. Office of Management and Budget, 1987).

(29) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which would have existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989), f. & cert. ef. 6-26-89; AQ 19, f. & ef. 3-30-92

Requirements for Sources in Nonattainment Areas

340-20-240 Proposed ~~{N}~~new major sources and major modifications which ~~{are}~~ would emit a nonattainment pollutant within a ~~{located in}~~ designated nonattainment area~~{s}~~ 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) for each nonattainment pollutant which is emitted at or above the significant emission rate (OAR 340-20-225 definition (25)). 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 reduction 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 for Offsets) and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards. Applicants in an ozone nonattainment area must demonstrate that the proposed offsets will result in a 10% net reduction in emissions, as described in OAR 340-20-260 (3)(c).

(5) Alternative Analysis:

(a) ~~{An alternative analysis must be conducted for}~~ The owner or operator of a proposed new major source{s} or major modification{s} of sources emitting volatile organic compounds or carbon monoxide located in nonattainment areas} shall conduct an alternative analysis for each nonattainment pollutant emitted at or above the significant emission rate (OAR 340-20-225 (25)), except that no analysis shall be required for Total Suspended Particulate (TSP);

(b) 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 new major sources and major modifications ~~{of sources of}~~ which emit volatile organic compounds and oxides of nitrogen at or above the significant emission rate (OAR 340-20-225 (25)) {which} and are located in the Salem Ozone nonattainment area shall comply with the requirements of sections (1) and (2) of this rule but are exempt from all other sections of this rule.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83

Growth Increments

340-20-241 [TO BE MOVED TO ATTAINMENT SECTION, 340-20-245 (8)]

(340-20-245)

(8) Medford-Ashland Growth Margin. The owner or operator of a proposed new major source or major modification in the Medford-Ashland Maintenance Area which will emit volatile organic compounds must obtain a portion of the growth margin or offsets equal to the amount of any increase in its plant site emission limit. ~~{The ozone control strategies for the Medford-Ashland and Portland Air Quality Maintenance Areas (AQMA) establish growth margins for new major sources or major modifications which will emit volatile organic compounds.}~~ The growth margin shall be allocated on a first-come-first-served basis depending on the date of submittal of a complete permit application. ~~{In the Medford-Ashland AQMA, n}~~ No single source shall receive an allocation of more than 50% of any remaining growth margin. ~~{In the Portland AQMA, no single source shall receive an allocation of more than 100 tons per year plus 25% of any remaining growth margin.}~~ The allocation of emission increases from the growth margins shall be calculated based on the ozone season (May 1 to September 30 of each year). The amount of each growth margin that is available is defined in the State Implementation Plan ~~{for each area}~~ and is on file with the Department.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 5-1983, f. & ef. 4-18-83; DEQ 5-1986, f. & ef. 2-21-86

Baseline for Determining Credit for Offsets

340-20-255 (1) The baseline for determining credit for emission offsets shall be the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 340-20-320 or, in the absence of a Plant Site Emission Limit, the actual emission rate for the source providing the offsets.

(2) 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.

(3) Emission reductions which are required pursuant to any state or federal regulation shall not be used for offsets.

(4) Approval of offsets shall not exempt the new major source or major modification from Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER), New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs) where required.

(5) Offsets, including offsets from mobile and area source categories, must be quantifiable and enforceable before the Air

Contaminant Discharge Permit is issued.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81

Requirements for Net Air Quality Benefit for Offsets

340-20-260 Demonstrations of net air quality benefit for offsets 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. This demonstration may require that air quality modeling be conducted according to the procedures specified in the "Guideline on Air Quality Models (Revised)" (including Supplement A).

(2) Offsets for volatile organic compounds or nitrogen oxides shall be within the same ~~general air basin~~ nonattainment area as the proposed source. Offsets for total suspended particulate, PM₁₀, sulfur dioxide, carbon monoxide, nitrogen dioxide, lead, and other pollutants shall be within the area of significant air quality impact.

~~{(2)}~~ (3) ~~{For a}~~ New major sources or major modifications ~~{located}~~ must meet the following offset requirements: (a) 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 located}~~ (b) outside ~~{of}~~ a designated nonattainment area, new major sources or major modifications which have a significant air quality impact (OAR 340-20-225 definition ~~{(23)}~~ (26)) 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; (c) within an ozone nonattainment area, new major sources or major modifications which emit volatile organic compounds or nitrogen oxides shall provide emission reductions at a 1.1 to 1 ratio (i.e., demonstrate a 10% net reduction); and (d) within 30 kilometers of an ozone nonattainment area, {Proposed} new major sources or major modifications which emit volatile organic compounds or nitrogen oxides {and are located 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)}~~ (4) 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 ten micrometers)}~~ PM₁₀ 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)}~~ (5) The emission reductions must be contemporaneous, that is, the reductions must take effect prior to the time of startup but not more than ~~one~~ two years prior to the submittal of a complete permit application for the new source or modification. This time limitation may be extended through banking, 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.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88)

Emission Reduction Credit Banking

340-20-265 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 340-20-320.

(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 ~~for to be allocated as a growth margin~~.

(3) Emission reductions which are required pursuant to an adopted rule 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)}~~ (5) 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.}~~ 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. A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked or

expires without renewal pursuant to the criteria established in OAR 340-14-005 through 340-14-050.

(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) Emission reductions must be in the amount of ten tons per year or more to be creditable for banking except as follows:

(a) In the Medford-Ashland AQMA emission reductions must be at least in the amount specified in Table 2 of OAR 340-20-225(20);

(b) In Lane County, the Lane Regional Air Pollution Authority may adopt lower levels.

(7) 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.

(8) 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.

(9) 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 transferred, 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.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83

NEW RULE FOR EMISSION STATEMENTS
(All new language)

Emission Statements for VOC and NOx Sources
in Ozone Nonattainment Areas

Purpose and Applicability

340-20-450 (1) The purpose of these rules is to obtain data on actual emissions of volatile organic compounds (VOC) and nitrogen oxides (NOx) from sources in ozone nonattainment areas, in accordance with Federal Clean Air Act requirements, for the purpose of monitoring progress toward attainment of the ozone national ambient air quality standard.

(2) This rule shall apply to sources of VOC and NOx in ozone nonattainment areas, with a Plant Site Emission Limit (PSEL) greater than 25 tons per year for either pollutant, and to any source whose actual emissions exceeds 25 tons per year.

(3) For purposes of establishing consistent emission reporting requirements, VOC and NOx sources already subject to the Department's Interim Emission Fee Rules (OAR 340-20-500 to 340-20-660) and electing to pay fees based on actual emissions shall report emission data to the Department, utilizing procedures identified in those rules to calculate actual VOC and NOx emissions, to the extent applicable. Other sources shall use current and applicable emission factors and actual production data to estimate and report actual emissions.

Definitions

340-20-460 As used in OAR 340-20-450 through 340-20-490, unless otherwise required by context:

(1) "Actual emissions" means all emissions including but not limited to routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities.

(2) "Certifying individual" means the responsible corporate official who certifies the accuracy of the emission statement.

(3) "Emission Factor" means an estimate of the rate at which a pollutant is released into the atmosphere, as the result of some activity, divided by the rate of that activity (e.g., production or process rate). Sources shall use an EPA or DEQ approved emission factor.

(4) "Nitrogen Oxides (NOx)" means all oxides of nitrogen except nitrous oxide.

(5) "Nonattainment area" means a geographical area of the State which exceeds any federal ambient air quality standard, and is designated as nonattainment by the Environmental Protection Agency.

(6) "Ozone Season" means the contiguous 3 month period of the year during which ozone exceedances typically occur (i.e.; June,

July, and August).

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

(8) "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.

(9) "Source category" means all the pollutant emitting activities which belong to the same industrial grouping (i.e., which have the same two-digit code) as described in EPA's Standard Industrial Classification (SIC) Manual.

(10) "Volatile organic compounds (VOC)" means any organic compound of carbon; excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, carbonates, and ammonium carbonate; which participates in atmospheric photochemical reactions to form ozone; that is, any precursor organic compound which would be emitted during use, application, curing, or drying of a surface coating, solvent, or other material. Excluded from this category are those compounds which the U.S. Environmental Protection Agency classifies as being of negligible photochemical reactivity, which includes: methane; ethane; methylene chloride; 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro-2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes - (1) cyclic, branched, or linear, completely fluorinated alkanes, (2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations, (3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations, and (4) sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

Requirements

340-20-480 (1) Sources of VOC and NOx subject to this rule shall annually submit data on the actual average emissions during the ozone season to the Department. Emission Statements submitted by the source to the Department shall contain the following information:

(a) Certification that the information contained in the statement is accurate to the best knowledge of the certifying individual.

(b) Source identification information: full name, physical location, mailing address of the facility, and Air Contaminant

Discharge Permit number.

(c) Emissions information:

(A) Estimated actual VOC and/or NOx emissions for those emissions over 25 tons per year, on an average weekday basis during the preceding year's ozone season, by source category; and

(B) Calendar year for the ozone season; and

(C) Each emission factor used and reference source for the emission factor, if applicable, or indicate other estimation method or procedure used to calculate emissions (e.g., material balance, source test, or continuous monitoring).

(2) Sources subject to these rules shall keep records at the plant site of the information used to calculate actual emissions pursuant to these rules. These records shall contain all applicable operating data, process rate data, and control equipment efficiency information and other information used to calculate or estimate actual emissions, and shall be available for the Department's review, or submitted upon request. Such records shall be kept by the source for three (3) calendar years after submittal of the emission statement.

Submission of Emission Statement

340-20-490 The owner or operator of any facility meeting the applicability requirements stated in OAR 340-20-450 must submit annual Emission Statements to the Department beginning in 1993. The Emission Statement for the preceding calendar year is due to the Department no later than either February 28 or the due date for the annual permit report specified in the source's Air Contaminant Discharge Permit.

brf
10/26/92
1 pm

**RULEMAKING STATEMENTS FOR NSR AMENDMENTS
AND NEW EMISSION STATEMENTS RULE**

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335 (7), this statement provides information on the intended action to propose rule amendments and new rules.

(1) Legal Authority

This proposal amends Oregon Administrative Rules (OAR) 340-20-220 to 340-20-276, New Source Review, and creates a new rule for Emission Statements. The amendments and rule are proposed under authority of Oregon Revised Statutes (ORS) Chapter 468.020 and 468A.025

(2) Need for these Rules

The Department's New Source Review (NSR) rules specify air quality requirements for new major sources and major modifications of existing sources. The proposed NSR amendments are a revision to the State Implementation Plan and required under the Title I, Part D of 1990 Clean Air Act Amendments.

Part D of the Act also contains new requirements for the submission of annual Emission Statements from stationary VOC and NOx sources in marginal ozone nonattainment areas. These emission statements will be used primarily for tracking of reasonable further progress in meeting the ozone national ambient air quality standard, and also represent a revision to the State Implementation Plan.

Both of these proposed rulemaking actions must be submitted to EPA this fall in order to meet the Act's deadline of November 15, 1992.

Public hearings for these amendments will be conducted concurrently with revisions to the Small Business Assistance Program, also required under the Act and due to EPA on the same date.

(3) Principal Documents Relied Upon

The Clean Air Act Amendments of 1990, Title I, Part D. 42 U.S.C. 7401 et seq., as amended November 15, 1990.

The General Preamble for Title I of the Clean Air Act Amendments of 1990. EPA guidance document February 11, 1992.

Guidance on Emission Statements, Draft Report, EPA Technical Support Division. Issued with General Preamble, 2/11/92.

Update: Implementing the 1990 Clean Air Act, EPA Speaks. The American Bar Association and the Air & Waste Management Association, February 27, 1992.

All documents referenced may be inspected at the Department of Environmental Quality, Air Quality Division, 811 S.W. 6th Avenue, Portland, Oregon, during normal business hours.

brf
6/29/92

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR PROPOSED AMENDMENTS TO NEW SOURCE REVIEW RULES
AND NEW EMISSION STATEMENTS RULE**

PROPOSAL SUMMARY

The Department is proposing amendments to its New Source Review rules OAR 340-20-220 to -276, and proposing a new rule requiring Emission Statements.

New Source Review (NSR) rules address requirements for new major sources and major modifications of existing sources. Amendments to these rules are necessary in order to incorporate new provisions contained in the 1990 Clean Air Act Amendments, under Title I, Part D, relating to all nonattainment areas (areas which do not meet national air quality standards (NAAQS)), and to the new operating permit program requirements under Title V of the Act.

The proposed NSR amendments are as follows:

- o emission increases from major new and modified sources in nonattainment areas must be offset by reductions in actual (rather than allowable) emissions;
- o increase the offset ratio for major new and modified sources in marginal ozone nonattainment areas from 1:1 to 1.1:1 (i.e., a 10% net reduction in emissions);
- o eliminate the growth margin or increment for major new and modified VOC sources previously provided by state rules for the Portland ozone nonattainment area; and
- o modify the Department's Banking Rule to reflect these revisions.

The proposed Emission Statement rule is also a requirement of the 1990 Clean Air Act Amendments, under Title I, Part D, relating specifically to ozone nonattainment areas. This rule will require stationary sources of volatile organic compounds (VOC) and nitrogen oxides (NOx) permitted at greater than 25 tons per year and located in the Portland marginal ozone nonattainment area to submit annual statements of actual emissions to the Department. These emission statements will be used primarily for tracking progress towards attaining the ozone NAAQS. The proposed Emission Statements must include certification of data accuracy, operating data, actual emissions at the process level,

control equipment information, and process rate data. Emission Statements must be submitted on an annual basis beginning no later than April 15, 1993, for the previous calendar year.

IMPACT ON INDUSTRY

The impact of the proposed NSR amendments is limited to new sources and modifications of existing sources in nonattainment areas which emit (or have the potential to emit) any pollutant at or above the "significant emission rate", as defined in OAR 340-20-225 (25). In recent years there have been virtually no offset transactions occurring in Oregon nonattainment areas for either major sources or major modifications. However, the Department does anticipate some industrial growth in Portland in the near future which will require offsets.

These amendments would require new and modified sources in all nonattainment areas to obtain offsets based on actual emission reductions over the most recent two calendar years prior to the offset. In Portland, which is a marginal ozone nonattainment area, VOC sources would be required to obtain a 10% net reduction (using a 1.1 to 1 ratio) for emission offsets. The elimination of the Portland growth increment would mean VOC sources would no longer be able to avoid obtaining offsets. Finally, major new sources and modified sources of NOx in the Portland Ozone Nonattainment Area would also be subject to the 1.1 to 1 offset ratio.

An example of the above discussion would be where a proposed new VOC source, such as aerospace component coating facility, with a potential to emit of 50 tons/year (which is over the significant emission rate for VOC of 40 tons/year) would be required to offset its new VOC emissions going into the nonattainment airshed by obtaining at least a 55 ton/year emission reduction from another VOC source or sources also in the Portland area. This offset must be accomplished through "actual" emission reductions achieved by additional pollution control equipment on an emission unit or units.

Due to the extreme infrequency of new sources and major modifications seeking offsets, as discussed above, there is little information on the "market value" related to sources purchasing offsets in Oregon. One factor which would affect the cost is whether the offset is created by installing pollution control equipment. General estimates for VOC offsets from the San Francisco Bay Area indicate a market value there of \$1000 to \$4000/ton, although some estimates reflecting the installation and operation of VOC control equipment such as an afterburner are as high as \$10,000 to \$20,000/ton. PM₁₀ offsets, which are very rare, are roughly estimated anywhere between \$10,000 to \$100,000/ton, due to the potentially high costs associated with

particulate emissions control equipment. In a new approach being proposed by EPA of scrapping old high polluting automobiles to create emission credits for stationary sources, cost estimates for offsets are as low as \$300/ton for CO, \$2750/ton for NOx, and \$3000/ton for VOC. Other estimates put a higher market value for CO offsets at between \$1000 and \$2000/ton.

The economic impact on new and modified VOC sources associated with the elimination of the Portland VOC growth increment is difficult to estimate. Sources are currently required by rule to make a "best effort" to obtain offsets first before applying for a growth increment emissions allocation. Based on the limited information on the cost of emission offsets, the estimated cost to new and modified VOC sources represented by the elimination of the growth margin could range from the \$1000 to \$4000/ton mentioned above for California.

The economic impact associated with limiting offsets to actual emissions rather than allowable is dependent on two factors: 1) the market value of future emission offsets in Oregon, which as discussed above is mostly unknown; and 2) the actual emissions of the source supplying the offsets in relation to its allowable or permitted emissions. For example, a VOC source with a Plant Site Emission Limit (PSEL) of 96 tons/year currently emitting 96 tons, which is providing a 40 ton/year VOC emission offset, would still have to make actual reductions under current rules to provide a 40 ton offset, and therefore would not be significantly affected by these amendments. However, another permitted 96 ton source emitting only 50 tons/year due to a current production cutback, could under existing offset rules use the unused 46 tons (i.e., the difference between its' PSEL and current actual emissions) to provide the new source with the needed 40 tons/year. Under the proposed amendments, the latter example would no longer be allowed, and a 40 ton/year actual emission reduction would be required. Since the difference between actual and allowable emissions varies considerably from source to source, there is no reliable estimate that can be made on the additional costs associated with this requirement, except that when external VOC offsets must be obtained they can cost between \$1000 - \$4000, as noted above.

The proposed new rule for Emission Statements will affect stationary VOC and NOx sources in the Portland Ozone Nonattainment Area permitted at greater than 25 tons per year, such as boilers, cement kilns, glass and metal melting furnaces, and natural gas turbine pumps. These sources will be required to submit annual VOC/NOx emissions to the Department, based on guidance supplied by the Department on how to determine these emissions. VOC/NOx sources permitted at less than 25 tons per year will be exempted by the Department.

In terms of the economic impact of the proposed new Emission

Statements rule, VOC/NOx sources emitting 100 tons/year or greater are already required to report annual emissions to the Department under the Department's Emission Fee rule (OAR 340-20-500 through -660) and the Department anticipates these sources will be able to use similar procedures for determining their annual emissions. Other sources permitted at 25 to 100 tons/year would need to determine annual emissions through continuous monitoring, source testing, or material balance techniques. Some of these techniques, such as material balance for determining VOC emissions, are already required by permit.

In terms of the anticipated costs for sources permitted at 25 to 100 tons, estimates for continuous monitoring for one pollutant are \$75,000 - \$125,000 in initial capital costs, \$20,000 - \$50,000 per year for operation and maintenance, and annualized costs of \$11,000 - \$26,000 at five percent over twenty years. Estimated costs for performing source tests are \$4,000 to \$7,000 for running a series of three tests. The estimates for using material balance sheets to calculate VOC air emissions is less than \$1,000 in analysis costs and approximately \$10,000 in employee costs.

IMPACT ON SMALL BUSINESSES

New small businesses which are major sources, as well as existing businesses considering major modifications, could be affected by these amendments. However, based on the discussion in the previous section, historically very few offset transactions have occurred. The new Emission Statement rule may affect some small businesses located in the Portland ozone nonattainment area which emit over 25 tons/year of VOC or NOx. In both cases, the costs outlined above would apply to small businesses.

IMPACT ON THE DEPARTMENT OF ENVIRONMENTAL QUALITY

The Department does not anticipate any significant increase in workload associated with these NSR amendments, based on the infrequency of major new sources and modified sources seeking offsets in nonattainment areas. The new Emission Statement rule will result in some workload increase, due to the need to review the annual emission reports for accuracy, and then to submit these reports to EPA. It is anticipated that any increased workload related to offsets or emission statements will be able to be incorporated into the Department's workload associated with implementing Title I and V requirements of the 1990 CAAA.

IMPACT ON LOCAL GOVERNMENT AND OTHER STATE AGENCIES

There are no impacts expected from this proposal.

brf
7/7/92

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

ATTACHMENT D

NOTICE OF PUBLIC HEARING

NSR AMENDMENTS/EMISSION STATEMENTS RULE

Hearing Dates: August 19 and
20, 1992

Comments Due: August 21, 1992.

WHO IS AFFECTED:

New major sources and major modifications of existing sources in nonattainment areas; and VOC and NOx stationary sources in marginal ozone nonattainment areas over 25 tons.

WHAT IS PROPOSED:

Amendments to the Department's New Source Review rules OAR 340-20-220 to -276, and a proposed new rule requiring Emission Statements.

WHAT ARE THE HIGHLIGHTS:

The Department's New Source Review (NSR) Rules address requirements for new major sources and major modifications of existing sources. Amendments to these rules are necessary in order to incorporate new provisions contained in the 1990 Clean Air Act Amendments, under Title I, Part D relating to areas which do not meet national ambient air quality standards. An overview of the proposed NSR amendments is as follows:

- o requires emission increases from new and modified sources in nonattainment areas be offset by real reductions in actual (rather than allowable) emissions;



811 S.W. 6th Avenue
Portland, OR 97204

11/1/86

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

- o requires the offset ratio for new and modified sources of volatile organic compounds (VOC) and nitrogen oxides (NOx) in ozone nonattainment areas be increased from 1:1 to 1.1:1 (a 10% net reduction in emissions);
- o eliminates the growth increment or margin for new and modified VOC sources previously provided by state rule in the Portland ozone nonattainment area; and
- o changes the Department's Emission Banking Rule to reflect new offset requirements.

In addition, the Department is proposing a new rule requiring stationary VOC sources and NOx sources permitted at greater than 25 tons per year located in the Portland marginal ozone nonattainment area to submit annual statements of actual VOC and NOx emissions to the Department, in order to track reasonable further progress toward attainment of air quality standards. The proposed Emission Statements must include certification of data accuracy, operating data, actual emissions from each emission point, control equipment information, and process rate data. Emission Statements must be submitted on an annual basis beginning no later than April 15, 1993, for the previous calendar year.

HOW TO COMMENT:

Copies of the complete proposed rule package may be obtained from the Air Quality Division at 811 SW Sixth Avenue, Portland, OR 97204, or the regional office nearest you. For further information, call toll free 1-800-452-4011 (in Oregon) or contact Brian Finneran at (503) 229-6278.

A public hearing will be held before a hearings officer at:

7:00 p.m.
 August 19, 1992
 Smullin Center Auditorium
 Rogue Valley Medical Ctr
 Medford, Oregon

3:30 p.m.
 August 20, 1992
 Conference Room 10A
 DEQ Headquarters
 811 SW Sixth
 Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than **5 p.m. Friday, August 21, 1992.**

WHAT IS THE NEXT STEP:

After public hearings, 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 rules will be submitted to the U.S. Environmental Protection Agency as a revision to the State Clean Air Act Implementation Plan. The Commission's deliberation should come on October 15 or 16, 1992, the scheduled dates for these EQC meetings.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

brf
7/08/92

DEQ LAND USE EVALUATION STATEMENT FOR RULEMAKING

AMENDMENTS TO NSR RULES AND NEW EMISSION STATEMENTS RULE

- (1) Explain the purpose of the proposed rules.

To meet current Clean Air Act requirements.

- (2) Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program? Yes X No

(a) If yes, explain: The proposed rule revisions will affect the Department's Air Contaminant Discharge Permits, which affect land use.

(b) If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules? Yes X No

If no, explain:

(c) If no, apply criteria 1. and 2. from the instructions for this form and from Section III Subsection 2 of the SAC program document to the proposed rules. In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

Not applicable

- (3) If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

Not applicable.

Division

Intergovernmental Coord.

Date

brf
6/29/92

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: October 23, 1992

TO: Environmental Quality Commission
FROM: Brian Finneran, Hearings Officer
SUBJECT: Hearings Report and Response to Comments on the New Source Review (NSR) Amendments

Background

Two public hearings were held to accept testimony on amendments to the Department's New Source Review (NSR) Rules, OAR 340-20-220 to -276, and the proposed new Emission Statements Rule. These hearings were authorized by the Director on July 8, 1992.

On August 19, 1992, a public hearing was at the Smullen Center Auditorium of the Rogue Valley Medical Center, Medford, Oregon. Three persons were in attendance, however, no one gave verbal or written testimony.

On August 20, 1992, a public hearing was held in Conference Room 3A, DEQ Headquarters, 811 SW Sixth Avenue, Portland, Oregon. Six persons attended the hearing; one person gave verbal testimony and no written comments were received.

A total of 9 persons submitted written comments prior to the August 28, 1992 deadline, which had been extended one week from the original deadline.

Testimony Summary

This summary of testimony addresses comments made on the NSR Amendments only. A second Hearing Officer's report covers the comments received on the proposed Emission Statement rule.

Most of the testimony provided was from industry representatives concerned about the potential impact of offsets. One written response was provided by EPA Region X staff.

The following outlines the issues raised in the testimony, both oral and written, followed by the Department's response. Copies of written testimony are available. A list of the names of those who provided public testimony appears at the end of this summary.

TESTIMONY SUMMARY/RESPONSE TO COMMENTS

I. Industry Comments:

1. The Department has misinterpreted the 1990 Clean Air Act Amendments (CAAA) requirements by stating that offsets can be based only on "actual" emissions. Plant Site Emission Limits (PSELs) can be used for offsets, even though they represent "allowable" emissions reductions rather than actual, since they are part of the SIP attainment demonstration.

Section 173(c) of the '90 CAAA clearly states that offsets must be based on "actual" emissions. While the Act does not elaborate on the issue of "actual vs. allowable" emissions, the fact that these terms are commonly used by EPA in guidance and rule form when referring to offsets in nonattainment areas, and therefore it is reasonable to expect that if Congress intended offsets to be based on something other than actuals, they would have used other terminology.

The fact that an attainment demonstration may be based on allowable (PSEL's) emissions is moot in that those attainment demonstrations which failed to show attainment by the original 1987 Act attainment deadline have been disapproved. In the case of the Portland ozone nonattainment area, which currently has a disapproved SIP, basing offsets on PSEL's would clearly allow sources to emit at higher actual levels than current actual levels, thereby worsening the nonattainment condition. This would clearly be in conflict with Congress's intent of not allowing "paper" offsets that might result in exacerbation of nonattainment conditions.

2. Defining "actual" emissions as the prior two year period is not required under the Act or federal guidance. Not only is there no scientifically defensible basis to require this, but using the past two-year period instead of the 1977-78 baseline would seriously limit the ability of offsets, and is counter to pollution prevention and long-range planning by industry.

It is agreed that the Act does not define actuals as the past two-year period. However, EPA's current NSR rules and other guidance does refer to this concept.¹

¹ See: 40 CFR 51.165(a)(1)(xii), definition of "actual emissions"; 40 CFR 51 Appendix S (IV)(C) - "Baseline for Determining Credit for Emission and Air Quality Offsets"; and EPA's 1986 Emission Trading Policy Statement, Appendix B.

An alternative approach which the Department now proposes is to continue to utilize the existing SIP-approved NSR rules. This means that for offsets under OAR 340-20-260(5), emission reductions related to offsets 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. An exception is allowed for use of "banked" credits. Banked credit provisions of DEQ rules (340-20-265) also have stringent time requirements. They require that application for banking be submitted to DEQ prior to or within one year following the actual emission reductions. Therefore emission reductions below PSEL's that may have been achieved more than one year ago would not be eligible for banking.

As industry has been subject to the existing offset and banking provisions in the current NSR rules for more than 10 years, and given the likelihood that EPA will find these rules consistent with the requirements in the Act, the Department believes the best course of action on this issue would be to retain current rule provisions, rather than add new provisions as previously discussed.

3. The Department should defer submitting NSR amendments by the November 15, 1992 CAAA deadline, and instead provide EPA with a commitment to develop rules after specific NSR rules are developed by EPA. The federal guidance for states is "non-binding", in addition to being unclear.

If the Department does not submit NSR rule amendments by the Clean Air Act deadline it subjects itself to the federal sanctions listed under Section 179 of the '90 CAAA. Federal NSR Amendments are not expected to be promulgated for another 1 to 2 years.

4. The Department should defer adoption of offset requirements for sources of nitrogen oxides (NOx), since the CAAA is not clear as to whether this is required in marginal ozone nonattainment areas such as Portland. The Department should not presume a need for NOx controls until EPA provides additional guidance on this. A workable NOx offset trading system should be established prior to imposing NOx offset requirements.

Section 182(f) of the Act requires NOx sources to be subject to the same requirements as VOC sources in all ozone nonattainment areas. The Department does not see any ambiguity in this language in applying the offset ratio of 1.1 to 1 in marginal ozone nonattainment areas to VOC and NOx sources.

The Department has determined that NOx reductions in the Portland

Ozone Nonattainment Area are important. In terms of establishing a workable NOx offset trading system, the Department can provide new NOx sources and major modifications of existing NOx sources with assistance in identifying and quantifying NOx emission reductions from existing sources to be used for offset purposes. The Department does not anticipate that the effect of 1.1 to 1 offset requirement will pose a significant hardship for new NOx sources locating in the Portland area.

5. All of Department's emission trading rules (offsets, banking, netting and bubbling) need clarification and should be revised simultaneously. A more comprehensive approach to emission trading is necessary to help industry plan for future growth under the Act.

The Department acknowledges that a comprehensive review may be appropriate, given the newer, more stringent provisions in the Act for industrial emissions growth in nonattainment areas. However, this need does not nullify the obligations of the state to reflect Clean Air Act requirements within the time frame of the Act. Given the time constraints in meeting the Acts' November 15, 1992 deadline, the Department was not able to undertake a more comprehensive review. Such a review is planned for early 1993.

6. The Department has not fully considered the impact of the NSR amendments (i.e., elimination of growth margins and offsets based on two-year actuals), since in some cases it will make the cost of offsets prohibitive.

The greatest impact of the NSR amendments is expected in the Portland ozone nonattainment area for VOC and NOx sources, due to the elimination of the Portland VOC growth margin, and the increased offset ratio of 1.1 to 1. However, estimating this impact is difficult given the fact that in recent years virtually no offset transactions have occurred, and therefore there is little information on the "market value" of offsets. The Department attempted to address this in its Fiscal and Economic Impact Statement (Attachment C) by providing general estimates on the cost of offsets. The Department acknowledges that there could very well be some cases where sources may find offset costs prohibitive.

7. Due to the extent of public comment and impact of the proposed rules, the Department should hold additional public hearings.

The Department has agreed to hold an additional meeting on October 9, 1992, with those who commented on the proposed amendments, in order to respond to the numerous issues that were raised.

8. Miscellaneous industry comments:

a. In eliminating the "growth margin" for the Portland Nonattainment Area, why did the Department retain the growth margin for the Medford-Ashland area?

The '90 CAAA eliminated growth margins in designated nonattainment areas. The Medford-Ashland area currently has an ozone maintenance control strategy in place which uses the "growth margin" approach in providing for and tracking emissions increases from industrial growth.

b. The Department should restore the growth margin as soon as the Portland airshed comes into attainment and develops a maintenance plan.

The Department agrees and intends to do this.

c. Section 340-20-255 ("Baseline for Determining Offsets") needs clarification by adding the words "for sources" to the beginning of each subsection.

The Department has removed the new language intended for this rule section after determining that it was unnecessary due to the consistency of existing rule language with the CAAA. (See #2 above.)

d. A source obtaining offsets should not be responsible ensuring that the offsets continue to be viable. This should be the Department's responsibility.

The Department does not intend to address this issue at this time, as it is more related to the discussion in #5 above on comprehensive review of trading rules than the specific CAAA requirements for offsets being addressed in this proposal.

e. The revision to the definition of "source" is more expansive than the federal rules, and is not required by the '90 CAAA.

The Department proposed this revision in response to discussions with EPA on the need to make this definition consistent with the EPA definition in 40 CFR 51.165(a)(1)(ii) and 51.1666(b)(29). In doing so incorrectly worded this definition. The definition was reworded so that the rule is consistent with the federal definition.

f. What is the impact of these rules on sources permitted to use oil as a backup fuel, but which do not utilize this over the two-year period (pursuant to the new definition of "actual") ?

The Department is no longer proposing a new definition of "actual emissions" for offsets, but rather proposing no change to the existing language, which requires offsets to be contemporaneous, as described above in #1. Therefore, in answer to this question there would be no impact on sources permitted to use oil as a backup fuel.

II. EPA Comments:

1. In order to implement the new offset requirements in the CAAA, the definition of "actual emissions" should be revised to allow for time periods other than the 1977-78 baseline. EPA recommends using the term "specified date" as contained in federal rules.

The Department believes existing rule language in OAR 340-20-260(5) currently requires offsets to be contemporaneous, as discussed in #2 above. This satisfies CAAA requirement that offsets in nonattainment areas be based on actuals.

2. The Department should either delete the "baseline period" definition entirely, per the above discussion, or amend it to its original language, adding wording to clarify what other use is intended.

The Department does not concur with EPA's suggestion that this definition could be deleted entirely, but does agree it should be amended to its original language. The reference to the pollutants listed in the first sentence has been deleted. This restores the definition to the original version prior to a rule-making action earlier this year regarding adoption of the NOx PSD Increment, which mistakenly added this language.

3. The rule for determining credit for offsets (340-20-255(1)(b)) should state that the "specified date" should be the date of a complete permit application for the source providing the offsets. This approach would eliminate repeating all the provisions included in the actual emission definition.

Since the Department has not agreed to incorporate EPA's definition of actual emissions as discussed above, and has eliminated the proposed wording regarding actual emissions, this suggested rule change is not needed.

4. The Department's amendment to the definition of "source" needs to be restructured, so that the phrase "combination thereof" comes after the new phrase "any activity".

The Department has made this correction consistent with EPA's regulations.

5. Miscellaneous EPA comments:

a. 340-20-225 (definitions). In definition (17), "nonattainment area" needs to include areas designated by EPA, and in (26) add sources of NOx to "significant air quality impact".

The Department agrees and has made this change.

b. 340-20-240. The opening sentence should clearly indicate both VOCs and NOx are the nonattainment pollutants for ozone nonattainment areas; and in section (6) add NOx to the list.

Since both VOC and NOx are listed in 340-20-225 (25) as pollutants for which there is a significant emission rate, the Department does not believe it is necessary to specifically mention these two pollutants at the beginning of this section. The Department does agree that NOx should be added to 340-20-240 (6), and has made this change.

c. 340-20-241. In the opening sentence change "control strategy" to "maintenance strategy".

The Department agrees and has made this change.

d. 340-20-255. In (1)(a) revise to read "in attainment and unclassified areas". Revise (3) to read "Emission reductions which are required pursuant to any state or federal regulation, or any permit condition, shall not be used for offsets." To (4) change "new source" to "new major source".

The Department agrees and has made these changes.

e. 340-20-260. In (2) change "general air basin" to "nonattainment area", and in the next sentence add "nitrogen dioxide and lead" to the list. In (4) replace "respirable particulate" with "PM10". In (5) reinstate the deleted sentence, since the reference to banked credits is germane.

The Department agrees and has made these changes. In subsection (5), the Department reinstated the deleted sentence and clarified the reference to the banking rule. (This sentence was deleted initially only because this reference was unclear.)

f. 340-20-265. In (1) add the term "netting" to the new language.

The language that was added to this subsection referencing the use of emission reduction credits was intended to clarify the different uses these credits can be applied to. However, upon review of this language the Department believes it is not

adequately clear, and therefore has been deleted.

6. Other EPA comments. EPA identified 17 other rule corrections which the Department will address at a later date. These were not directly related to the Department's proposed NSR amendments; but were rather "housekeeping" changes related to other provisions of the Act.

Public Testimony on NSR Amendments

1. Mark Morford, Stoel Rives Boley Jones & Grey, Attorneys at Law, Portland, OR.
2. Douglas Morrison, Northwest Pulp & Paper, Bellevue, WA
3. Jim Whitty, Associated Oregon Industries, Portland, OR.
4. Bob Gilbert, James River Corporation, Camas, WA.
5. Theresa Parrone, Tektronix Inc., Beaverton, OR
6. John Arand, Bonnie Gariepy, Intel Corp., Hillsboro, OR
7. Jim Craven, American Electronics Assoc., Salem, OR
8. Larry Patterson, Elf Atochem North America, Portland, OR.
9. Margaret Welsh, Electric Generation Assoc., Washington D.C.
10. George Abel, EPA Region X, Seattle, WA.

brf
10/23/92

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY INTEROFFICE MEMORANDUM

DATE: October 22, 1992

TO: Environmental Quality Commission
FROM: Brian Finneran, Hearings Officer
SUBJECT: Hearings Report and Response to Comments on the
Emission Statement Rule

Background

Two public hearings were held to accept testimony on amendments to the Department's New Source Review (NSR) Rules, OAR 340-20-220 to -276, and the proposed new Emission Statements Rule. These hearings were authorized by the Director on July 8, 1992.

On August 19, 1992, a public hearing was at the Smullen Center Auditorium of the Rogue Valley Medical Center, Medford, Oregon. Three persons were in attendance, however, no one gave verbal or written testimony.

On August 20, 1992, a public hearing was held in Conference Room 3A, DEQ Headquarters, 811 SW Sixth Avenue, Portland, Oregon. Six persons attended the hearing; one person gave verbal testimony and no written comments were received.

A total of 9 persons submitted written comments prior to the August 28, 1992 deadline, which had been extended one week from the original deadline.

Testimony Summary

The following is a summary of testimony on the proposed Emission Statement rule followed by the Department's Response to Comments. A separate Hearing Officers Report and Response to Comments were prepared on the NSR Amendments. Copies of written testimony are available. A list of the names of those who provided public testimony appears at the end of this summary.

TESTIMONY SUMMARY/RESPONSE TO COMMENTS

I. Industry Comments:

1. The rule should not be adopted as proposed, in that it is not consistent with the Act, in that the only the reporting of actual emissions is stated in Section 182 (a)(3)(B) of the Act.

After careful review of Section 182 of the Act and EPA's non-binding guidance on Emission Statements, the Department concurs that the Act only requires the reporting of actual emissions. The purpose of requiring Emission Statements from VOC & NOx sources over 25 tons in a ozone nonattainment area is for tracking emissions during the summer ozone season, based on the Clean Air Act's goal of ensuring reasonable further progress in meeting the ozone air quality standard. Once the area demonstrates attainment and is reclassified by EPA, the Emission Statements, like the various offset ratio requirements also mentioned in Section 182 of the Act, are eliminated. EPA's Guidance on Emission Statements would require reporting of additional information such as operating data, control equipment efficiency, and process rate data, which the Department does not believe is necessary for the tracking of summertime ozone emissions, and in not supported by the Act. The Department has therefore revised the rule to require basically reporting of average weekday emissions during the ozone season, and that this information be kept at the plant site and submitted submitted to the Department if requested. Such requests are likely to be infrequent, and necessary only to check the accuracy of the Emission Statement. Also included is the reporting of emission factors in order to provide for quality control of data.

2. EPA's guidance is non-binding, therefore DEQ should either postpone adoption until legally binding regulations are is issued by EPA, or adopt a much simpler Emission Statement rule.

Even though the Emission Statement guidance is a non-binding document, the state is bound to comply with the November 15, 1992 CAAA deadline. Failure to meet the deadline would subject the Department to federal sanctions.

3. The rule represents a significant reporting burden on industry, by requiring actual emissions be reported.

The Department has simplified the proposed rule as discussed in #1 above, so that reporting operating and process rate data

is no longer required. Also, since proposing this rule the Department has been informed by EPA that the reporting of "estimated" actual emissions using EPA emission factors will be acceptable for all Emission Statements, in lieu of continuous monitoring and source testing. Therefore, in addition to the revisions outlined in #1, the Department has revised section 340-20-450 (3) the proposed rule to indicate that emissions can be estimated using EPA emission factors.

4. The 25 ton exemption for sources should be based on actual not permitted emissions.

The 1990 Clean Air Act Amendments gives states the option of exempting sources with actual emissions less than 25 tons per year. However, in order to do this actual emissions would have to be determined, and since actual emissions can vary from year to year, this would require further demonstration that a given sources' actual emissions fall below this exemption limit each year. In choosing to apply this option, the Department believes a much easier and straightforward approach is to use permitted (PSEL) levels, in order to avoid any confusion as to which sources are above or below the 25 ton limit. To address cases where actual emissions may exceed permitted levels because of such factors as upsets and breakdowns (i.e., excess emissions), a "catch all" provision must be added to the rule. The Department has added new language to section 340-20-450 (2) clarifying that these sources shall also be subject to the Emission Statement rule.

5. The 25 ton exemption needs to be clarified as it applies to unpermitted sources and sources without a PSEL.

Clearly the rule was not intended to apply to unpermitted sources, or to small VOC and NOx sources with a Minimal Source permit (sources under 10 tons for which no PSEL is specified). The Department agrees that rewording the rule to read as applying to sources with a PSEL over 25 tons rather than exempting sources with a PSEL under 25 tons, would better clarify this matter, and has made this change.

6. The rule should state that if either VOC or NOx is over 25 tons, then both emissions should be reported.

This provision is stated in EPA's non-binding guidance on Emission Statements. The Department disagrees with EPA that this is a necessary requirement under the Clean Air Act. The option of sources not reporting emissions under 25 tons is stated in the Act, and is based on the concept that the state will provide EPA with estimates of actual emissions from those sources exempted from the rule, as part of the requirement for

states to submit base year and periodic emission inventories. Therefore, the Department believes that in cases involving a source emitting both VOC and NOx, where one is over 25 tons and the other is under 25 tons, the rule should be consistent in requiring only the emissions above the 25 tons to be subject to this rule.

7. The rule should state that emissions from exempted sources will be included in the base year inventory by DEQ. EPA has commented that the Department's proposed rule does not state this. The Department does not believe it is necessary for this to be stated in rule form, and intends instead to simply state this in the SIP revision submittal letter, which EPA has indicated is acceptable.

8. Sources subject to the rule should not have to report emissions for the first year (1992), since this is not specified in the Act.

The 1990 CAAA does state in Section 182 (a)(3)(B) that the first Emission Statement "shall be submitted within 3 years after the date of enactment" of the Act by the source. This means that by no later than November 15, 1993, the first statement must be submitted. EPA's guidance on Emission Statements states that this means reporting of actual emissions for the previous calendar year, which for the first submittal would be calendar year 1992. Since the rule allows estimating actuals, this first submittal is not expected to cause any undue hardship.

9. Due to the extent of public comment and impact of the proposed rule, the Department should hold additional public hearings.

The Department has agreed to hold an additional meeting on October 9, 1992, with those who commented on the proposed amendments, in order to respond to the numerous issues that were raised.

10. Some of the reporting requirements do not apply and therefore cannot be readily complied with by all sources.

The Department does not intend to require sources to supply information for which such information cannot be reasonably quantified. The Department will provide assistance and guidance to any source having difficulty in complying with a particular reporting requirement.

11. Some language is confusing and needs to be better defined.

As described above the Department has simplified the proposed rule as discussed in #1 above, so that reporting operating and process rate data is no longer required. Accompanying language and definitions with this change should better clarify the rule.

Other minor revisions made in response to industry comments were elimination of the "Exemptions" section and reference to enforcement action in the Compliance section, and clarification of the date of submittal for Emission Statements.

Public Testimony on Emission Statement Rule

1. Mark Morford, Stoel Rives Boley Jones & Grey, Attorneys at Law, Portland, OR.
2. Douglas Morrison, Northwest Pulp & Paper, Bellevue, WA
3. Jim Whitty, Associated Oregon Industries, Portland, OR.
4. Bob Gilbert, James River Corporation, Camas, WA.
5. Theresa Parrone, Tektronix Inc., Beaverton, OR
6. John Arand, Bonnie Gariepy, Intel Corp., Hillsboro, OR
7. Jim Craven, American Electronics Assoc., Salem, OR
8. Larry Patterson, Elf Atochem North America, Portland, OR.
9. Margaret Welsh, Electric Generation Assoc., Washington D.C.
10. George Abel, EPA Region X, Seattle, WA.

BF
10/22/92

PUBLIC HEARING INFORMATION PACKET

Division: Air Quality
Section: Planning & Development

SUBJECT:

Amendments to New Source Review Rules OAR 340-20-220 to - 276, and proposed new rule requiring Emission Statements, as a revision to the Oregon State Implementation Plan.

PURPOSE:

To meet current Clean Air Act Requirements.

DESCRIPTION OF ACTION:

The Department's New Source Review (NSR) Rules address requirements for new major sources and major modifications of existing sources. Amendments to these rules are necessary in order to incorporate new provisions contained in the 1990 Clean Air Act Amendments, under Title I, Part D relating to areas which do not meet national ambient air quality standards. An overview of the proposed NSR amendments is as follows:

- o requires emission increases from new and modified sources in nonattainment areas be offset by real reductions in actual (rather than allowable) emissions;
- o requires the offset ratio for new and modified sources of volatile organic compounds (VOC) and nitrogen oxides (NOx) in ozone nonattainment areas be increased from 1:1 to 1.1:1 (a 10% net reduction in emissions);
- o eliminates the growth increment or margin for new and modified VOC sources previously provided by state rule in the Portland ozone nonattainment area; and
- o changes the Department's Emission Banking Rule to reflect new offset requirements.

In addition, the Department is proposing a new rule

requiring stationary VOC sources and NOx sources permitted at greater than 25 tons per year located in the Portland marginal ozone nonattainment area to submit annual statements of actual VOC and NOx emissions to the Department. The proposed Emission Statements must include certification of data accuracy, operating data, actual emissions from each emission point, control equipment information, and process rate data. Emission Statements must be submitted on an annual basis beginning no later than ~~April 15,~~ 1993, for the previous calendar year.
February 28

Two minor housekeeping changes were made to the definition section of the NSR rules involving (1) changing the VOC significant emission rate for the Medford-Ashland area back to the original rate (from 20 to 40 tons per year), to reflect that this area is no longer an ozone nonattainment area, and (2) revising the definition of "source" to include emissions from "any activity" at the source.

AUTHORITY/NEED FOR ACTION:

Statutory Authority: ORS 468.020/468A.025 Attachment
 Pursuant to Rule: OAR 340-20-220 to -276 Attachment
 Other: Attachment

Time Constraints: The proposed amendments are a revision to the State Implementation Plan and required under the 1990 Clean Air Act Amendments. They must be submitted to EPA this fall in order to meet the Act's deadline of November 15, 1992. For purposes of consistency and expediency, the public hearings for these amendments will be conducted concurrently with revisions to the Small Business Assistance Program, also required under the Act and due to EPA on the same date.

BACKGROUND:

Title I of the 1990 Clean Air Act Amendments (CAAA) revised the requirements for areas which have not attained national ambient air quality standards (nonattainment areas), and identifies the changes all states must make to their state implementation plans. Part D of Title I focuses on ozone (smog) pollution, and establishes nonattainment classifications according to the severity of the area's ozone problem. Marginal areas are the closest to meeting the standard, and have the fewest requirements, followed by moderate, serious, severe and extreme classifications. Also included in Part D are revisions to New Source Review (NSR) requirements for major new and modified sources in all nonattainment areas, which is implemented by the new operating permit program requirements under Title V of the

Act.

The Portland Ozone Nonattainment Area has been classified as a marginal area. It is required to demonstrate attainment by November 15, 1993. The provisions which apply to marginal areas are contained in Section 182(a) of the Act. One of the requirements is the submission of annual Emission Statements from stationary VOC and NOx sources showing actual emissions of these pollutants (sources under 25 tons per year may be exempted by states). These emission statements will be used for tracking of reasonable further progress in meeting national ambient air quality standards (NAAQS) and for following emission trends and compliance certification related to the Title V operating permit program. Also required under Section 182(a) is an offset ratio of at least 1.1 to 1 (a net 10 percent emissions reduction) for new or modified sources, in order to ensure reasonable further progress toward NAAQS attainment.

An additional requirement under section 182(f) is a requirement subjecting new and modified major sources of NOx to the NSR provisions of Section 173. This means that the NSR permit requirements for marginal ozone nonattainment areas that apply to major sources of VOCs would also apply to major NOx sources, since NOx is a precursor compound which forms ozone. This includes the 1.1 to 1 offset ratio as described above. Reasonably Available Control Technology (RACT) requirements for NOx are required for all other ozone classifications except marginal areas, so this requirement does not to apply to the Portland area.

The general NSR permit requirements applicable to Oregon nonattainment areas are contained in Sections 172 and 173 of Part D. Section 173 requires that permits for new and modified sources must be issued in accordance with the New Operating Permit Program required under Title V of the Act. It also establishes emission offsets as the primary regulatory mechanism for accommodating industrial growth without jeopardizing the Act's mandate for reasonable further progress toward NAAQS attainment. It requires that emission increases from new or modified sources be offset by actual emissions rather than allowable or permitted emission reductions.

The net air benefit between these two types of emission reductions can be significant in cases where a source's actual emissions are significantly below its permitted emissions. In such cases an offset based on allowable emissions may only result in a "paper" emissions reduction under current conditions, while an offset based on current

actual emissions involves adding pollution control equipment or permanent source shutdown, thereby resulting in a real reduction of current pollutant emissions in the nonattainment airshed.

Section 173 also eliminates the use of growth allowances (i.e., previous emission reductions dedicated to allow for future industrial growth without the use of offsets) in effect prior to the effective date of the '90 CAAA in nonattainment areas. These growth allowances were allowed by the 1977 Clean Air Act since they represented emission control of existing sources beyond that needed to demonstrate attainment. However, 1990 CAAA no longer views these growth allowances as ensuring reasonable further progress, and in setting tighter requirements for nonattainment areas has eliminated these provisions in favor of emission offsets. This will effectively eliminate the growth allowance or increment for new and modified VOC sources in the Portland area.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The effect of the proposed NSR amendments is limited to major new sources and major modifications of existing sources in nonattainment areas. In recent years there have been virtually no offset transactions occurring in Oregon nonattainment areas for either major sources or major modifications. However, should the economic climate improve, it is likely that offset transactions would increase the economic impact of this activity, as discussed in Attachment C, Fiscal and Economic Impact Statement).

These rule amendments will require new and modified major sources in nonattainment areas to obtain offset based on actual emission reductions rather than allowable or permitted emission reductions. Allowable emissions for a source are its permitted emissions or Plant Site Emission Limit, whereas actual emissions are the average plantwide emissions over the most recent two calendar year period prior to the offset. In Portland, which is a marginal ozone nonattainment area, VOC sources would be required to obtain a 10% net reduction (using a 1.1 to 1 ratio) for emission offsets. The elimination of the Portland growth increment would mean VOC sources would no longer be able to avoid having to obtain costly offsets. Finally, major new sources and modified sources of NOx in the Portland Ozone Nonattainment Area would also be subject to the 1.1 to 1 offset ratio.

The proposed new rule for Emission Statements will affect

stationary VOC and NOx sources in the Portland marginal ozone nonattainment area permitted at greater than 25 tons per year. Stationary sources of NOx in the Portland area include boilers, afterburners, cement kilns, glass and metal melting furnaces, and natural gas turbine pumping stations. VOC/NOx sources emitting over 100 tons/year are already required to report annual emissions to the Department under the Department's Emission Fee rule (OAR 340-20-500 through -660) and therefore are not expected to be significantly affected by this new rule. Other sources between 25 and 100 tons/year would need to determine annual emissions through continuous monitoring, source testing, or material balance techniques. VOC/NOx sources permitted at less than 25 tons per year can be exempted by the Department.

PROGRAM CONSIDERATIONS:

These amendments are required by the 1990 Clean Air Act, and must be completed by November 15, 1992.

Section 179 of the CAAA describes actions to be taken by EPA for states which fail to submit an amended SIP by the statutory deadline. These actions involve sanctions which would affect federal highway funds and/or require emission offsets for new and modified sources at a 2 to 1 rate. Failure to comply would also make the state vulnerable to citizen suits.

In March of 1992 EPA issued a guidance document entitled "General Preamble for Nonattainment Provisions of the Clean Air Act". Although not required by the Act, this guidance describes EPA's policy related to implementing Title I requirements, and is to be used by states in developing approvable SIPs. The Department has relied upon this guidance in the preparation of these proposed rule revisions.

While the General Preamble addresses the majority of Title I provisions, absent from the General Preamble is guidance on NSR requirements on the Prevention of Significant Deterioration (PSD) under Part C of the CAAA. These NSR/PSD requirements have a deadline of November 15, 1992; however EPA has indicated in the General Preamble that guidance is forthcoming. Consequently, and with the approval of EPA, the Department is not addressing these revisions at this time.

The Department does not anticipate any significant increase in workload associated with these NSR amendments since new sources and modified sources seeking offsets in

nonattainment areas is rare. The new Emission Statement rule will result in some workload increase, due to the need to review the annual emission reports for accuracy, and then to submit these reports to EPA. It is anticipated this increased workload will be able to be incorporated into the Department's other emission inventory responsibilities required under Title I and V of the 1990 CAAA.

ATTACHMENTS:

Proposed Rules (Division 20)	Attachment	<u>A</u>
Rulemaking Statements	Attachment	<u>B</u>
Fiscal and Economic Impact Statement	Attachment	<u>C</u>
Public Notice	Attachment	<u>D</u>
Land Use Evaluation Statement	Attachment	<u>E</u>

INTENDED FOLLOWUP ACTIONS:

1. File notice in Secretary of State Bulletin, and advertise public hearings in newspaper.
2. Hold public hearings in August 1992.
3. Summarize public testimony and respond to issues.
4. Propose adoption, with appropriate revisions in response to testimony, at the EQC meetings scheduled for October 15 and 16, 1992.
5. EQC adoption at the October meeting and subsequent submittal to EPA by the November 15, 1992 deadline.

Report Prepared By: Brian Finneran

Phone: 229-6278

Date Prepared: July 10, 1992

brf
7/10/92

- DRAFT -

NEW SOURCE REVIEW AMENDMENTS**New Source Review****Applicability**

340-20-220 (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 340-20-280 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 340-20-032), Air Contaminant Discharge Permits (OAR 340-20-140 to 340-20-185), Emission Standards for Hazardous Air Contaminants (OAR 340-25-450 to 340-25-480), and Standards of Performance for New Stationary Sources (OAR 340-25-505 to 340-25-545).

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81

Definitions

340-20-225 (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. 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, as defined in OAR 340-20-225 (22).

(2) "Baseline Concentration" means:

(a) the ambient concentration level for sulfur dioxide and total suspended particulate matter 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.

(b) the ambient concentration level for nitrogen oxides which existed in an area during the calendar year 1988.

(3) "Baseline Period" means either calendar years 1977 or 1978 for sulfur dioxide or total suspended particulate matter and calendar year 1988 for nitrogen oxides. 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) "Class I area" means any Federal, State or Indian reservation land which is classified or reclassified as Class I area. Class I areas are identified in OAR 340-31-120.

(6) "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.

(7) "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.

(8) "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the Administrator of the U.S. Environmental Protection Agency which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.

(9) "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.

(10) "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.

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

(12) "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.

(13) "Growth Increment" means an allocation of some part of an airshed's capacity to accommodate future new major sources and major modifications of sources.

(14) "Lowest Achievable Emission Rate (LAER)" means that rate of emissions which reflects: 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 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.

(15) "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 (25)) 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 modification causing such increases become subject to the New Source Review requirements including the retrofit of required controls.

(16) "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 (25)).

(17) "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.

(18) "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.

(19) "Particulate Matter Emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods.

(20) "PM₁₀ Emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by applicable reference methods.

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

(22) "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.

(23) "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.

(24) "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.

(25) "Significant emission rate" means:

(a) 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

<u>Significant Pollutant</u>	<u>Emission Rate</u>
(A) Carbon Monoxide	100 tons/year
(B) Nitrogen Oxides	40 tons/year
(C) Particulate Matter*	25 tons/year
(i) TSP	25 tons/year
(ii) PM ₁₀	15 tons/year
(D) Sulfur Dioxide	40 tons/year
(E) Volatile Organic Compounds	40 tons/year
(F) Lead	0.6 ton/year
(G) Mercury	0.1 ton/year
(H) Beryllium	0.0004 ton/year
(I) Asbestos	0.007 ton/year
(J) Vinyl Chloride	1 ton/year
(K) Fluorides	3 tons/year
(L) Sulfuric Acid Mist	7 tons/year
(M) Hydrogen Sulfide	10 tons/year
(N) Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(O) Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

NOTE: For the ~~nonattainment portions of the~~ Medford-Ashland Air Quality Maintenance Area, and the Klamath Falls Urban Growth Area, the Significant Emission Rate{s} for particulate matter ~~and volatile organic compounds are~~ is defined in Table 2.

(b) For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate;

(c) 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/m³ (24 hour average) shall be deemed to be emitting at a significant emission rate (see Table 2).

Table 2
(OAR 340-20-225)

**Significant Emission Rates for the ~~{Nonattainment~~
~~Portions of the}~~ Medford-Ashland Air Quality
Maintenance Area and the Klamath Falls Urban Growth Area**

Air Contaminant	Annual		Day Hour		Emission Rate	
	Kilograms	(tons)	Kilogram	(lbs)	Kilogram	(lbs)
Particulate Matter (TSP or PM ₁₀)	4,500	(5.0)	23	(50.0)	4.6	(10.0)
Volatiles Organic Compound (VOC)	18,000	(20.0)	91	(200)

NOTE: For the Klamath Falls Urban Growth Area, the Significant Emission Rate[s] for particulate matter ~~{apply}~~ applies to all new or modified sources for which permit applications have not been submitted prior to June 2, 1989; particulate emission increases of 5.0 or more tons per year must be fully offset, but the application of lowest achievable emission rate (LAER) is not required unless the emission increase is 15 or more tons per year. At the option of sources with particulate emissions of 5.0 or more but, less than 15 tons per year, LAER control technology may be applied in lieu of offsets.

Table 3
(OAR 340-20-225)

**Significant Air Quality Ambient Air Quality Impact
Which is Equal to or Greater Than:**

Pollutant	Pollutant Averaging Time				
	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 or PM ₁₀	.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

(26) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than those set out in Table 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.

(27) "Significant Impairment" occurs when visibility impairment in the judgment of the Department interferes with the management, protection, preservation, or enjoyment of the visual experience of visitors within a Class I area. The determination must be made on a case-by-case basis considering the recommendations of the Federal Land Manager; the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered with respect to visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(28) "Source" means any building, structure, facility, installation, ~~for~~ combination thereof, or any activity 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.

(29) "Visibility Impairment" means any humanly perceptible change in visual range, contrast or coloration from that which would have existed under natural conditions. Natural conditions include fog, clouds, windblown dust, rain, sand, naturally ignited wildfires, and natural aerosols.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 14-1989), f. & cert. ef. 6-26-89; AQ 19, f. & ef. 3-30-92

Requirements for Sources in Nonattainment Areas

340-20-240 Proposed ~~new~~ major sources and major modifications which ~~are~~ emit a nonattainment pollutant at or above the significant emission rate (OAR 340-20-225 (25)) within a ~~located in~~ designated nonattainment area 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) for each nonattainment pollutant which is emitted at or above the significant emission rate (OAR 340-20-225 definition (25)). 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 reduction 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 for Offsets) and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards. Applicants in an ozone nonattainment area must demonstrate that the proposed offsets will result in a 10% net reduction in emissions, as described in OAR 340-20-260 (3)(c).

(5) Alternative Analysis:

(a) ~~{An alternative analysis must be conducted for}~~ The owner or operator of a proposed new major source{s} or major modification{s} of sources emitting volatile organic compounds or carbon monoxide locating in nonattainment areas} shall conduct an alternative analysis for each nonattainment pollutant emitted at or above the significant emission rate (OAR 340-20-225 (25)), except that no analysis shall be required for Total Suspended Particulate (TSP);

(b) 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 new major sources and major modifications ~~{of sources of}~~ which emit volatile organic compounds at or above the significant emission rate (OAR 340-20-225 (25)) {which} and are located in the Salem Ozone nonattainment area shall comply with the requirements of sections (1) and (2) of this rule but are exempt from all other sections of this rule.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83

Growth Increments

340-20-241 The ozone control strategy ~~{ies}~~ for the Medford-Ashland ~~{and Portland Air Quality Maintenance}~~ Area~~s}~~ (AQMA) establishes a growth margin~~s}~~ for new major sources or major modifications which will emit volatile organic compounds. The growth margin shall be allocated on a first-come-first-served basis depending on the date of submittal of a complete permit application. ~~{In the Medford-Ashland AQMA, n}~~ No single source shall receive an allocation of more than 50% of any remaining growth margin. ~~{In the Portland AQMA, no single source shall receive an allocation of more than 100 tons per year plus 25% of any remaining growth margin.}~~ The allocation of emission increases from the growth margins shall be calculated based on the ozone season (May 1 to September 30 of each year). The amount of each growth margin that is available is defined in the State Implementation Plan ~~{for each area}~~ and is on file with the Department.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 5-1983, f. & ef. 4-18-83; DEQ 5-1986, f. & ef. 2-21-86

Baseline for Determining Credit for Offsets

340-20-255 (1) The baseline for determining credit for emission offsets shall be based on the following: (a) in attainment areas, the baseline shall be the Plant Site Emission Limit established pursuant to OAR 340-20-300 to 340-20-320 or, in the absence of a Plant Site Emission Limit, the actual emission rate for the source providing the offsets; (b) in nonattainment areas, the baseline shall be the average rate at which the source providing the offsets actually emitted the pollutant over the most recent two calendar years, or another period determined by the Department to be more representative of normal source operation.

(2) 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.

(3) Emission reductions which are required pursuant to an adopted rule shall not be used for offsets.

(4) Approval of offsets shall not exempt the new source or major modification from Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER), New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) where required.

(5) Offsets, including offsets from mobile and area source categories, must be quantifiable and enforceable before the Air Contaminant Discharge Permit is issued.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81

Requirements for Net Air Quality Benefit for Offsets

340-20-260 Demonstrations of net air quality benefit for offsets 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. This demonstration may require that air quality modeling be conducted according to the procedures specified in the "Guideline on Air Quality Models (Revised)" (including Supplement A).

(2) 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, PM₁₀ sulfur dioxide, carbon monoxide and other pollutants shall be within the area of significant air quality impact.

~~{(2)}~~ (3) ~~{For n}~~ New major sources or major modifications ~~{located}~~ must meet the following offset requirements: (a) within a designated nonattainment area, the ~~{emission}~~ offsets must provide actual emission reductions pursuant to OAR 340-20-255 (1)(b), 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 located}~~ (b) outside ~~{of}~~ a designated nonattainment area, new major sources or major modifications which have a significant air quality impact (OAR 340-20-225 definition ~~{(23)}~~ (26)) 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; (c) within an ozone nonattainment area, new major sources or major modifications which emit volatile organic compounds or nitrogen oxides shall provide emission reductions at a 1.1 to 1 ratio (i.e., demonstrate a 10% net reduction); and (d) within 30 kilometers of an ozone nonattainment area, {Proposed} new major sources or major modifications which emit volatile organic compounds or nitrogen oxides ~~{and are located 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)}~~ (4) 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 ten micrometers) 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)}~~ (5) 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.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88)

Emission Reduction Credit Banking

340-20-265 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 340-20-320, depending upon the use of the credits; i.e., whether the credits are to be used for offsets or bubbling, and whether the credits are to be used in an attainment or nonattainment area (see the pertinent Department's rules regarding the use of these emission trading methods).

(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 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)}~~ (5) 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.}~~ 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. A permanent source shutdown or curtailment shall be considered to have occurred when a permit is modified, revoked or expires without renewal pursuant to the criteria established in OAR

340-14-005 through 340-14-050.

(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) Emission reductions must be in the amount of ten tons per year or more to be creditable for banking except as follows:

(a) In the Medford-Ashland AQMA emission reductions must be at least in the amount specified in Table 2 of OAR 340-20-225(20);

(b) In Lane County, the Lane Regional Air Pollution Authority may adopt lower levels.

(7) 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.

(8) 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.

(9) 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 transferred, 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.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83

NEW RULE FOR EMISSION STATEMENTS

**Emission Statements for VOC and NOx Sources
in the Portland Ozone Nonattainment Area**

Purpose and Applicability

340-20-450 (1) The purpose of these rules is to obtain additional and accurate information on actual emissions of volatile organic compounds (VOC) and nitrogen oxides (NOx) in ozone nonattainment areas, in accordance with Federal Clean Air Act requirements for increased reporting and tracking of emissions, in order to monitor progress toward attainment of the ozone national ambient air quality standard.

(2) The owner or operator of a stationary source which emits either VOC or NOx and is located in the Portland Ozone Nonattainment Area shall submit an Emission Statement to the Department pursuant to OAR 340-20-450 through 340-20-490. Sources with a Plant Site Emission Limit for VOC or NOx less than 25 tons per year shall be exempt from these rules.

(3) For purposes of establishing consistent emissions reporting requirements for all pollutants, the criteria and procedures to calculate actual VOC and NOx emissions associated with these rules shall be as consistent as possible with those set forth in the Department's Interim Emission Fee Rules, as described in OAR 340-20-500 to 340-20-660.

Definitions

340-20-460 As used in OAR 340-20-450 through 340-20-490, unless otherwise required by context:

(1) "Actual emissions" means all emissions for the calendar year including but not limited to routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities.

(2) "Annual fuel process rate" means the actual or calculated annual fuel, process or solid waste operating rate.

(3) "Calculated emissions" means procedures used to estimate emissions for the previous calendar year.

(4) "Certifying individual" means the individual responsible for the completion and certification of the emission statement (e.g., officer of the company) and who will take legal responsibility for the emission statement's accuracy.

(5) "Control efficiency" means the current control efficiency achieved by the control device. The current efficiency should reflect control equipment downtime and maintenance degradation. If

the current control efficiency is unknown, the design efficiency (reduced by 10%) may be used. However, it should be clearly indicated that the design and not the current efficiency is being reported.

(6) "Nitrogen Oxides (NOx)" means all oxides of nitrogen except nitrous oxide.

(7) "Ozone season" means the period of the year between May and September, inclusive.

(8) "Percentage annual throughput" means the weighted percent of throughput (i.e., production rate, fuel usage, etc., as identified in a source's Air Contaminant Discharge Permit) estimated for the previous periods (not on a calendar year basis):

(a) December - February;

(b) March - May;

(c) June - August;

(d) September - November.

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

(10) "Process level" means a particular production process and any equipment essential to the process, as identified by federal Source Classification Codes (SCC).

(11) "Stationary Source" means any building, structure, facility, or installation which emits or is capable of emitting air contaminants into the atmosphere.

(12) "Volatile organic compounds (VOC) means any compound of carbon; excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, carbonates, and ammonium carbonate; which participates in atmospheric photochemical reactions to form ozone; that is, any precursor organic compound. Excluded from this category are those compounds which the U.S. Environmental Protection Agency classifies as being of negligible photochemical reactivity, which includes but is not limited to methane, ethane, methylene chloride, 1,1,1-trichloroethane (methyl chloroform), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), trichlorotrifluoromethane (CFC-113), dichlorotetrafluoroethane (CFC-114), and chloropentafluoroethane (CFC-115).

Exemptions

340-20-470 Sources with a Plant Site Emission Limit for VOC or NOx less than 25 tons per year shall be exempt from these rules.

Requirements

340-20-480 The criteria and procedures to calculate VOC and NOx emissions associated with these rules shall be as consistent as possible with those set forth in the Department's Interim Emission Fee Rules, as described in OAR 340-20-500 to 340-20-660. Emission

Statements submitted by the source to the Department shall contain the following information:

(1) Certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement. The certification shall include the full name, title, signature, date of signature, and telephone number of the certifying individual.

(2) Source identification information: full name, physical location, mailing address of the facility, and Air Contaminant Discharge Permit number.

(3) Operating data:

(a) Percentage annual throughput;

(b) Days per week on both the normal operating schedule and on a typical ozone season day (if different from the normal operating schedule);

(c) Hours per day on both the normal operating schedule and on a typical ozone season day (if different from the normal operating schedule); and

(4) Emissions information based on calculated or actual emissions:

(a) Actual VOC and/or NO_x emissions at the process level in tons per year;

(b) Actual VOC and/or NO_x emissions at the process level in pounds per day for a typical ozone season day;

(c) Calendar year for the emissions.

(5) Control equipment information:

(a) Current control equipment efficiencies.

(6) Process rate data:

(a) Annual fuel process rate; and

(b) Peak ozone season daily process rate.

Compliance

340-20-490 (1) The owner or operator of any facility meeting the applicability requirements stated in OAR 340-20-450 must submit annual Emission Statements to the Department on an annual basis beginning no later than February 28, 1993, or in 1993 the due date for the annual permit report, for the previous calendar year. The Emission Statement shall include the data outlined in 340-20-480.

(2) Failure to comply with the reporting requirements of these rules may result in enforcement action pursuant to OAR Chapter 340, Division 12, Enforcement Procedure and Civil Penalties.

brf
7/17/92

**RULEMAKING STATEMENTS FOR NSR AMENDMENTS
AND NEW EMISSION STATEMENTS RULE**

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335 (7), this statement provides information on the intended action to propose rule amendments and new rules.

(1) Legal Authority

This proposal amends Oregon Administrative Rules (OAR) 340-20-220 to 340-20-276, New Source Review, and creates a new rule for Emission Statements. The amendments and rule are proposed under authority of Oregon Revised Statutes (ORS) Chapter 468.020 and 468A.025

(2) Need for these Rules

The Department's New Source Review (NSR) rules specify air quality requirements for new major sources and major modifications of existing sources. The proposed NSR amendments are a revision to the State Implementation Plan and required under the Title I, Part D of 1990 Clean Air Act Amendments.

Part D of the Act also contains new requirements for the submission of annual Emission Statements from stationary VOC and NOx sources in marginal ozone nonattainment areas. These emission statements will be used primarily for tracking of reasonable further progress in meeting the ozone national ambient air quality standard, and also represent a revision to the State Implementation Plan.

Both of these proposed rulemaking actions must be submitted to EPA this fall in order to meet the Act's deadline of November 15, 1992.

Public hearings for these amendments will be conducted concurrently with revisions to the Small Business Assistance Program, also required under the Act and due to EPA on the same date.

(3) Principal Documents Relied Upon

The Clean Air Act Amendments of 1990, Title I, Part D. 42 U.S.C. 7401 et seq., as amended November 15, 1990.

The General Preamble for Title I of the Clean Air Act Amendments of 1990. EPA guidance document February 11, 1992.

Guidance on Emission Statements, Draft Report, EPA Technical Support Division. Issued with General Preamble, 2/11/92.

Update: Implementing the 1990 Clean Air Act, EPA Speaks. The American Bar Association and the Air & Waste Management Association, February 27, 1992.

All documents referenced may be inspected at the Department of Environmental Quality, Air Quality Division, 811 S.W. 6th Avenue, Portland, Oregon, during normal business hours.

brf
6/29/92

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR PROPOSED AMENDMENTS TO NEW SOURCE REVIEW RULES
AND NEW EMISSION STATEMENTS RULE**

PROPOSAL SUMMARY

The Department is proposing amendments to its New Source Review rules OAR 340-20-220 to -276, and proposing a new rule requiring Emission Statements.

New Source Review (NSR) rules address requirements for new major sources and major modifications of existing sources. Amendments to these rules are necessary in order to incorporate new provisions contained in the 1990 Clean Air Act Amendments, under Title I, Part D, relating to all nonattainment areas (areas which do not meet national air quality standards (NAAQS)), and to the new operating permit program requirements under Title V of the Act.

The proposed NSR amendments are as follows:

- o emission increases from major new and modified sources in nonattainment areas must be offset by reductions in actual (rather than allowable) emissions;
- o increase the offset ratio for major new and modified sources in marginal ozone nonattainment areas from 1:1 to 1.1:1 (i.e., a 10% net reduction in emissions);
- o eliminate the growth margin or increment for major new and modified VOC sources previously provided by state rules for the Portland ozone nonattainment area; and
- o modify the Department's Banking Rule to reflect these revisions.

The proposed Emission Statement rule is also a requirement of the 1990 Clean Air Act Amendments, under Title I, Part D, relating specifically to ozone nonattainment areas. This rule will require stationary sources of volatile organic compounds (VOC) and nitrogen oxides (NOx) permitted at greater than 25 tons per year and located in the Portland marginal ozone nonattainment area to submit annual statements of actual emissions to the Department. These emission statements will be used primarily for tracking progress towards attaining the ozone NAAQS. The proposed Emission Statements must include certification of data accuracy, operating data, actual emissions at the process level,

control equipment information, and process rate data. Emission Statements must be submitted on an annual basis beginning no later than April 15, 1993, for the previous calendar year.

IMPACT ON INDUSTRY

The impact of the proposed NSR amendments is limited to new sources and modifications of existing sources in nonattainment areas which emit (or have the potential to emit) any pollutant at or above the "significant emission rate", as defined in OAR 340-20-225 (25). In recent years there have been virtually no offset transactions occurring in Oregon nonattainment areas for either major sources or major modifications. However, the Department does anticipate some industrial growth in Portland in the near future which will require offsets.

These amendments would require new and modified sources in all nonattainment areas to obtain offsets based on actual emission reductions over the most recent two calendar years prior to the offset. In Portland, which is a marginal ozone nonattainment area, VOC sources would be required to obtain a 10% net reduction (using a 1.1 to 1 ratio) for emission offsets. The elimination of the Portland growth increment would mean VOC sources would no longer be able to avoid obtaining offsets. Finally, major new sources and modified sources of NOx in the Portland Ozone Nonattainment Area would also be subject to the 1.1 to 1 offset ratio.

An example of the above discussion would be where a proposed new VOC source, such as aerospace component coating facility, with a potential to emit of 50 tons/year (which is over the significant emission rate for VOC of 40 tons/year) would be required to offset its new VOC emissions going into the nonattainment airshed by obtaining at least a 55 ton/year emission reduction from another VOC source or sources also in the Portland area. This offset must be accomplished through "actual" emission reductions achieved by additional pollution control equipment on an emission unit or units.

Due to the extreme infrequency of new sources and major modifications seeking offsets, as discussed above, there is little information on the "market value" related to sources purchasing offsets in Oregon. One factor which would affect the cost is whether the offset is created by installing pollution control equipment. General estimates for VOC offsets from the San Francisco Bay Area indicate a market value there of \$1000 to \$4000/ton, although some estimates reflecting the installation and operation of VOC control equipment such as an afterburner are as high as \$10,000 to \$20,000/ton. PM₁₀ offsets, which are very rare, are roughly estimated anywhere between \$10,000 to \$100,000/ton, due to the potentially high costs associated with

particulate emissions control equipment. In a new approach being proposed by EPA of scrapping old high polluting automobiles to create emission credits for stationary sources, cost estimates for offsets are as low as \$300/ton for CO, \$2750/ton for NOx, and \$3000/ton for VOC. Other estimates put a higher market value for CO offsets at between \$1000 and \$2000/ton.

The economic impact on new and modified VOC sources associated with the elimination of the Portland VOC growth increment is difficult to estimate. Sources are currently required by rule to make a "best effort" to obtain offsets first before applying for a growth increment emissions allocation. Based on the limited information on the cost of emission offsets, the estimated cost to new and modified VOC sources represented by the elimination of the growth margin could range from the \$1000 to \$4000/ton mentioned above for California.

The economic impact associated with limiting offsets to actual emissions rather than allowable is dependent on two factors: 1) the market value of future emission offsets in Oregon, which as discussed above is mostly unknown; and 2) the actual emissions of the source supplying the offsets in relation to its allowable or permitted emissions. For example, a VOC source with a Plant Site Emission Limit (PSEL) of 96 tons/year currently emitting 96 tons, which is providing a 40 ton/year VOC emission offset, would still have to make actual reductions under current rules to provide a 40 ton offset, and therefore would not be significantly affected by these amendments. However, another permitted 96 ton source emitting only 50 tons/year due to a current production cutback, could under existing offset rules use the unused 46 tons (i.e., the difference between its' PSEL and current actual emissions) to provide the new source with the needed 40 tons/year. Under the proposed amendments, the latter example would no longer be allowed, and a 40 ton/year actual emission reduction would be required. Since the difference between actual and allowable emissions varies considerably from source to source, there is no reliable estimate that can be made on the additional costs associated with this requirement, except that when external VOC offsets must be obtained they can cost between \$1000 - \$4000, as noted above.

The proposed new rule for Emission Statements will affect stationary VOC and NOx sources in the Portland Ozone Nonattainment Area permitted at greater than 25 tons per year, such as boilers, cement kilns, glass and metal melting furnaces, and natural gas turbine pumps. These sources will be required to submit annual VOC/NOx emissions to the Department, based on guidance supplied by the Department on how to determine these emissions. VOC/NOx sources permitted at less than 25 tons per year will be exempted by the Department.

In terms of the economic impact of the proposed new Emission

Statements rule, VOC/NOx sources emitting 100 tons/year or greater are already required to report annual emissions to the Department under the Department's Emission Fee rule (OAR 340-20-500 through -660) and the Department anticipates these sources will be able to use similar procedures for determining their annual emissions. Other sources permitted at 25 to 100 tons/year would need to determine annual emissions through continuous monitoring, source testing, or material balance techniques. Some of these techniques, such as material balance for determining VOC emissions, are already required by permit.

In terms of the anticipated costs for sources permitted at 25 to 100 tons, estimates for continuous monitoring for one pollutant are \$75,000 - \$125,000 in initial capital costs, \$20,000 - \$50,000 per year for operation and maintenance, and annualized costs of \$11,000 - \$26,000 at five percent over twenty years. Estimated costs for performing source tests are \$4,000 to \$7,000 for running a series of three tests. The estimates for using material balance sheets to calculate VOC air emissions is less than \$1,000 in analysis costs and approximately \$10,000 in employee costs.

IMPACT ON SMALL BUSINESSES

New small businesses which are major sources, as well as existing businesses considering major modifications, could be affected by these amendments. However, based on the discussion in the previous section, historically very few offset transactions have occurred. The new Emission Statement rule may affect some small businesses located in the Portland ozone nonattainment area which emit over 25 tons/year of VOC or NOx. In both cases, the costs outlined above would apply to small businesses.

IMPACT ON THE DEPARTMENT OF ENVIRONMENTAL QUALITY

The Department does not anticipate any significant increase in workload associated with these NSR amendments, based on the infrequency of major new sources and modified sources seeking offsets in nonattainment areas. The new Emission Statement rule will result in some workload increase, due to the need to review the annual emission reports for accuracy, and then to submit these reports to EPA. It is anticipated that any increased workload related to offsets or emission statements will be able to be incorporated into the Department's workload associated with implementing Title I and V requirements of the 1990 CAA.

IMPACT ON LOCAL GOVERNMENT AND OTHER STATE AGENCIES

There are no impacts expected from this proposal.

brf
7/7/92

A CHANCE TO COMMENT ON...

ATTACHMENT D

NOTICE OF PUBLIC HEARING

NSR AMENDMENTS/EMISSION STATEMENTS RULE

Hearing Dates: August 19 and
20, 1992

Comments Due: August 21, 1992.

WHO IS AFFECTED:

New major sources and major modifications of existing sources in nonattainment areas; and VOC and NOx stationary sources in marginal ozone nonattainment areas over 25 tons.

WHAT IS PROPOSED:

Amendments to the Department's New Source Review rules OAR 340-20-220 to -276, and a proposed new rule requiring Emission Statements.

WHAT ARE THE HIGHLIGHTS:

The Department's New Source Review (NSR) Rules address requirements for new major sources and major modifications of existing sources. Amendments to these rules are necessary in order to incorporate new provisions contained in the 1990 Clean Air Act Amendments, under Title I, Part D relating to areas which do not meet national ambient air quality standards. An overview of the proposed NSR amendments is as follows:

- o requires emission increases from new and modified sources in nonattainment areas be offset by real reductions in actual (rather than allowable) emissions;



811 S.W. 6th Avenue
Portland, OR 97204

11/1/86

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

- o requires the offset ratio for new and modified sources of volatile organic compounds (VOC) and nitrogen oxides (NOx) in ozone nonattainment areas be increased from 1:1 to 1.1:1 (a 10% net reduction in emissions);
- o eliminates the growth increment or margin for new and modified VOC sources previously provided by state rule in the Portland ozone nonattainment area; and
- o changes the Department's Emission Banking Rule to reflect new offset requirements.

In addition, the Department is proposing a new rule requiring stationary VOC sources and NOx sources permitted at greater than 25 tons per year located in the Portland marginal ozone nonattainment area to submit annual statements of actual VOC and NOx emissions to the Department, in order to track reasonable further progress toward attainment of air quality standards. The proposed Emission Statements must include certification of data accuracy, operating data, actual emissions from each emission point, control equipment information, and process rate data. Emission Statements must be submitted on an annual basis beginning no later than April 15, 1993, for the previous calendar year.

HOW TO COMMENT:

Copies of the complete proposed rule package may be obtained from the Air Quality Division at 811 SW Sixth Avenue, Portland, OR 97204, or the regional office nearest you. For further information, call toll free 1-800-452-4011 (in Oregon) or contact Brian Finneran at (503) 229-6278.

A public hearing will be held before a hearings officer at:

7:00 p.m.
 August 19, 1992
 Smullin Center Auditorium
 Rogue Valley Medical Ctr
 Medford, Oregon

3:30 p.m.
 August 20, 1992
 Conference Room 10A
 DEQ Headquarters
 811 SW Sixth
 Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than 5 p.m. Friday, August 21, 1992.

WHAT IS THE NEXT STEP:

After public hearings, 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 rules will be submitted to the U.S. Environmental Protection Agency as a revision to the State Clean Air Act Implementation Plan. The Commission's deliberation should come on October 15 or 16, 1992, the scheduled dates for these EQC meetings.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

brf
7/08/92

DEQ LAND USE EVALUATION STATEMENT FOR RULEMAKING

AMENDMENTS TO NSR RULES AND NEW EMISSION STATEMENTS RULE

(1) Explain the purpose of the proposed rules.

To meet current Clean Air Act requirements.

(2) Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program? Yes X No

(a) If yes, explain: The proposed rule revisions will affect the Department's Air Contaminant Discharge Permits, which affect land use.

(b) If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules? Yes X No

If no, explain:

(c) If no, apply criteria 1. and 2. from the instructions for this form and from Section III Subsection 2 of the SAC program document to the proposed rules. In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

Not applicable

(3) If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

Not applicable.

Division

Intergovernmental Coord.

Date

Rulemaking Hearing Authorization Clearance

Title: Amendments to New Source Review Rules OAR 340-20-220 to -276, and proposed new rule requiring Emission Statements, as a revision to the Oregon State Implementation Plan.

Purpose: To meet current Clean Air Act Requirements.

Clearance Signatures: The following have reviewed and concur with the rulemaking proposal and the package of materials intended for distribution to the public with the public notice:

Author: Brian Cimmerman

Section Mgr.: John Kawaligke

Division Admn.: John Kawaligke San S. Co.

Land Use Compatibility Statement: [Signature]

Fiscal & Economic Impact Statement: Beth A. Woodrow

Legal Counsel: Shelley K. McEntyre

Designated Reviewer(s): Rebecca Taylor

Director's Authorization to Proceed to Hearing: Iveel Hansen

Date: 7/21/92