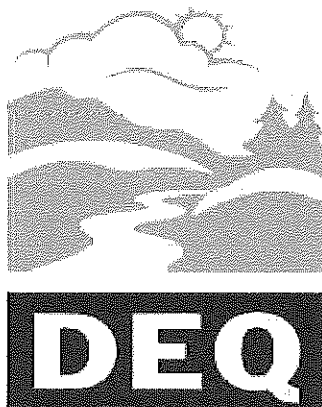


**OREGON
ENVIRONMENTAL QUALITY
COMMISSION MEETING
MATERIALS 09/10/1993**



**State of Oregon
Department of
Environmental
Quality**

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A G E N D A

ENVIRONMENTAL QUALITY COMMISSION MEETING

September 10, 1993
DEQ Conference Room 3a
811 S. W. 6th Avenue
Portland, Oregon

Friday, September 10, 1993: Regular Meeting beginning at 8:30 a.m.

Notes:

Because of the uncertain length of time needed for each agenda item, the Commission may deal with any item at any time in the meeting. If a specific time is indicated for an agenda item, an effort will be made to consider that item as close to that time as possible. However, scheduled times may be modified if agreeable with participants. Anyone wishing to be heard or listen to the discussion on any item should arrive at the beginning of the meeting to avoid missing the item of interest.

***Public Forum:** The Commission will break the meeting at approximately 11:30 a.m. for the Public Forum if there are people signed up to speak. The Public Forum is an opportunity for citizens to speak to the Commission on environmental issues and concerns not a part of the agenda for this meeting. Individual presentations will be limited to 5 minutes. The Commission may discontinue this forum after a reasonable time if an exceptionally large number of speakers wish to appear.*

- A. Approval of Minutes
- B. Approval of Tax Credits
- C. Rule Adoption: Federal Operating Permit Program Rules and Hazardous Air Pollutant Control Rules
- D. Approval of Biennial Programs for Communities Seeking to use the Assessment Deferral Loan Program during 1993-95.
- E. Report on the 1993 Legislative Session
- F. Commission Members Reports (Oral)
- G. Director's Report (Oral)

H. Work Session Discussion:

- Economic Benefit - Recovering the Economic Gain of Non-Compliance, and
- Inability to Pay - Calculating a Violator's Ability to Pay a Civil Penalty

I. Work Session Discussion: Environmental Performance Measures

Hearings have already been held on the Rule Adoption items; therefore any testimony received will be limited to comments on changes proposed by the Department in response to hearing testimony. The Commission also may choose to question interested parties present at the meeting.

The Commission has set aside October 28-29, 1993, for their next meeting. The location has not been established.

Copies of staff reports for individual agenda items are available by contacting the Director's Office of the Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204, telephone 229-5395, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

If special physical, language or other accommodations are needed for this meeting, please advise the Director's Office, (503)229-5395 (voice)/(503)229-6993 (TDD) as soon as possible but at least 48 hours in advance of the meeting.

August 25, 1993

Approved _____
Approved with Corrections _____

Minutes are not final until approved by the EQC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the Two Hundred and Thirtieth Meeting
July 22-23, 1993

Work Session

The Environmental Quality Commission Work Session was convened at 1:00 p.m. on Thursday, July 22, 1993, in Conference Room 3A, Oregon Department of Environmental Quality (DEQ), 811 S. W. Sixth Avenue, Portland, Oregon.

The following commission members were present:

William Wessinger, Chair
Henry Lorenzen, Commissioner
Linda McMahan, Commissioner
Carol Whipple, Commissioner

Also present were Michael Huston, Assistant Attorney General, Oregon Department of Justice, Stephanie Hallock sitting in for Fred Hansen, Director, DEQ, who had to be in Salem at the Legislature, and other DEQ staff.

1. **Work Session: Accomplishments & Status of Nonpoint Source Control Efforts in the Tualatin Watershed**

Andy Schaedel of the Water Quality Division staff introduced this work session item by noting that a series of speakers would present information on the implementation of nonpoint source controls in the basin. Mr. Schaedel started with background information on the Total Maximum Daily Load (TMDL) process. He handed out materials showing the status of compliance with water quality standards, noting that the upper basin is near compliance, and the lower basin gets farther from compliance. Since efforts began, there has been a dramatic reduction in pollutant loading, with an 80 percent reduction in total phosphorous.

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Bruce Cleland, representing Region X of the Environmental Protection Agency, explained the major steps involved in the TMDL approach to water quality management, noting that it was a phased approach. He stated that Oregon's experience over the past five years was being looked at closely by others.

Neil Mullane of the Water Quality Division staff, noted the uncertainties in the data and information available for use in the TMDL process and the need for an iterative process with fine tuning over time. He indicated that current data shows that some streams have lower phosphorous levels than first thought, and some have higher levels. He stated that no major shift in the original strategy is needed, just fine tuning.

Commissioner Whipple asked how much of the lack of information is the result of a lack of resources as compared to a lack of knowledge. Mr. Mullane responded that both factors were applicable.

Mark Schoenig, City of Lake Oswego, spoke about the implementation efforts of cities. He mentioned the surface water utility fee that is being used to pay for the long-term ongoing efforts. He noted that this fee had been challenged in the courts. The tax court ruled that the fee was a tax that was subject to Measure 5 limitations. The tax court ruling was overturned upon appeal. He mentioned educational efforts directed at schools, developers and contractors and the handbook that had been prepared to assist new developments. He also noted that the cities had submitted National Pollutant Discharge Elimination System (NPDES) stormwater permit applications.

Chair Wessinger asked about cooperation from the public. Mr. Schoenig stated that they were getting support and understanding and making progress but had a long way to go.

Dave Degenhardt, Oregon Department of Forestry, discussed efforts to control phosphorous from forest lands. He noted that sampling indicated different levels of phosphorous in different streams, with no relationship to logging. The levels appeared to relate more to underlying rock types rather than soil types.

Mike Wolf, Oregon Department of Agriculture, noted that it was hard to describe progress relative to agriculture sources. Phosphorous has been reduced by efforts at container nurseries and confined animal feeding operations. Progress was also made on controlling erosion from highly erodible lands. In response to questions from the Commission, Mr. Wolf indicated that nurseries have voluntarily complied to avoid having to obtain a permit from the DEQ. He also noted that an estimated that 60 to 75 percent of the livestock are in permitted facilities and that 13,000 out of 75,000 acres of agricultural land are considered highly erodible.

Steve Hawkins, City of Portland, described some of the impediments to implementation faced by the cities including the maze of permitting requirements (including 404 permits for wetlands), zoning, water rights (18-month delay to implement wetland treatment), fish and wildlife issues (wetlands cause water temperature increases) and funding.

Mike Houck, Urban Streams Council, discussed urban wildlife issues. He noted that no one objected to extending the deadline provided the control programs were aggressively pursued, staff recommendations were followed and there was citizen involvement. He indicated that the most contentious issue was buffers--where land use and water quality come together. He also stated that the most important issue is riparian habitat management that needs consideration beyond phosphorous. John Jackson, representing Unified Sewerage Agency, noted that riparian habitat management involves issues that go beyond water quality authority.

Mitch Wolgamott of the Water Quality Division staff, summarized some of the rural issues related to implementation, including the lack of implementation (enforcement) authority and budget within the Department of Agriculture. He also noted that county roads were an issue since road ditches are collectors of pollutants.

Phil Ward, Assistant Director of the Department of Agriculture, summarized the major provision of the new Agricultural Practices Act recently passed by the Legislature. This new legislation gives the Department of Agriculture the authority needed to assure implementation.

David Noren, Washington County, indicated that the county had questions about their legal authority to address issues related to county roads. He noted they were working with staff to try to find a way. In the meantime, all road related efforts are voluntary.

Bill Gaffi, representing Unified Sewerage Agency, concluded the presentations by noting that implementation efforts must take into account a series of concerns including a distrustful electorate, a demand for a wide variety of services and growth pressures. He stressed the need for better information and public education. He noted the increasing emphasis at the federal and state level for *watershed management*. He suggested the need for a mutually supported vision for the future for the basin and formation of a basin council to deal with the currently fragmented regulatory structure. Finally, he noted that it was essential that all agencies deliver on their promises to the public.

2. Work Session: Discussion of Proposed Federal Operating Permit Program Rules and Hazardous Air Pollutant Control Rules

Wendy Sims of the Air Quality Division staff, introduced this work session item by providing some background on the Clean Air Act Amendment of 1990 which imposed a number of new requirements on the states. The Department will be seeking Commission adoption at the September meeting of new rules to implement hazardous air pollutant controls and the required federal operating permit program. Other rules will be proposed for adoption in October regarding fee increases and updated emission standards. The federal operating permit program must be reviewed and approved by the EPA and ready to place in operation by November 1994.

Sarah Laumann of the Air Quality Division staff, described the program scope including the number and types of sources that would be covered by the new permit requirements and the methods which will be used to regulate them. Changes from the existing state permit program were highlighted.

Jill Inahara of the Air Quality Division staff, explained the permitting process that was being proposed in the new rules. Significant issues raised by the advisory committee and during public comment were highlighted.

Gregg Lande of the Air Quality Division staff, explained the hazardous air pollutant program requirements and provisions of the proposed rules. Steve Greenwood, Administrator of the Air Quality Division, noted that the public is very interested in hazardous air pollutants.

Kevin Downing of the Air Quality Division staff, showed a short video segment of the Department's effort to explain the proposed rules to the interested public through the use of the Ed-Net teleconferencing facilities. Staff and the public were able to participate in this effort from several locations around the state. He also briefly described the process for federal approval of the state program.

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Director Hansen returned from Salem before the end of the work session and advised the Commission the Department's budget had been reported out of conference committee. There was no further business, and the work session was adjourned at 4:10 p.m.

Regular Meeting

The Environmental Quality Commission regular meeting was convened at 8:30 a.m. on Friday, July 23, 1993, in Conference Room 3A, DEQ, 811 S. W. Sixth Avenue, Portland, Oregon. The following commission members were present:

William Wessinger, Chair
Emery Castle, Vice Chair
Henry Lorenzen, Commissioner
Linda McMahan, Commissioner
Carol Whipple, Commissioner

Also present were Michael Huston, Assistant Attorney General, Oregon Department of Justice, Lydia Taylor sitting in for Fred Hansen, Director, DEQ, and other DEQ staff. Director Hansen joined the meeting later after appearing before the Legislature in Salem.

Note: Staff reports presented at this meeting, which contain the Department's recommendations, are on file in the Office of the Director, DEQ, 811 S. W. Sixth Avenue, Portland, Oregon 97204. Written material submitted at this meeting is made a part of this record and is on file at the above address. These written materials are incorporated into the minutes of the meeting by reference.

Chair Wessinger called the meeting to order.

A. Approval of Minutes

Commissioner Whipple moved that the minutes of the June 10, 1993, meeting be approved. The motion was seconded by Commissioner Castle and unanimously approved.

B. Approval of Tax Credits

The Department recommended issuance of tax credit certificates for 46 applications as presented in Attachment A of the staff report and summarized as follows:

Application Number	Applicant	Description
TC-3613	Bonbright Oil Company	Water pollution control facility consisting of spill and overflow prevention devices, leak detectors, an oil/water separator and Stage II vapor recovery piping.
TC-3926	Sabroso Company	Water pollution control facility consisting of a concrete pad with catch basin, an oil separator tank and associated plumbing in an enclosed building.
TC-3928	Chevron USA, Inc.	Four double-wall fiberglass underground storage tanks, double-wall fiberglass piping, spill containment, overflow prevention, leak detection and State II vapor recovery piping.
TC-3929	Chevron USA, Inc.	Four double-wall fiberglass underground storage tanks, double-wall fiberglass piping, spill containment, overflow prevention, leak detection and State II vapor recovery piping.
TC-3930	Chevron USA, Inc.	Four double-wall fiberglass underground storage tanks, double-wall fiberglass piping, spill containment, overflow prevention, leak detection and State II vapor recovery piping.
TC-3931	Chevron USA, Inc.	Four double-wall fiberglass underground storage tanks, double-wall fiberglass piping, spill containment, overflow prevention, leak detection and State II vapor recovery piping.

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Application Number	Applicant	Description
TC-3932	Chevron USA, Inc.	Four double-wall fiberglass underground storage tanks, double-wall fiberglass piping, spill containment, overfill prevention, leak detection and State II vapor recovery piping.
TC-3962	Darigold, Inc.	Water pollution control facility to treat and monitor the Ph of its process wastewater
TC-3967	Northern Engineering & Plastics Corp.	General Hydraulics Model 6030 baler for the reclamation of plastic products.
TC-4004	Carl Bivens Automotive	Automobile air conditioner coolant recovery and recycling equipment.
TC-4013	Gresham Transfer Company	Solid waste pollution control facility consisting of a vacuum and storage hopper system to recover and store dry commodity residue.
TC-4026	Leathers Oil Company	Monitoring wells and an oil/water separator.
TC-4027	Leathers Oil Company	Monitoring wells.
TC-4030	RKM, Inc.	22'x 132' x 144' pole construction, metal clad grass seed straw storage building.
TC-4031	Chevron USA, Inc.	Stage II vapor recovery balance-type system consisting of OPW 211V nozzles, hoses, retrofit kits, breakaway safety valves, piping and miscellaneous equipment.

Application Number	Applicant	Description
TC-4036	Chevron USA, Inc.	Four double-wall fiberglass underground storage tanks and piping, spill containment basins, tank monitor, turbine leak detectors, overfill alarm, automatic shutoff valves, sumps and State II vapor recovery piping.
TC-4037	Chevron USA, Inc.	Stage II vapor recovery balance-type system consisting of OPW 211V nozzles, hoses, adapters and miscellaneous equipment.
TC-4053	Roger Neuschwander	John Deere flail mower, model 27 (air pollution control equipment).
TC-4054	J. C. Jones Oil Company, Inc.	Epoxy tank lining and spill containment basins for three underground storage tanks.
TC-4055	J. C. Jones Oil Company, Inc.	Secondary containment for seven aboveground storage tanks.
TC-4058	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4059	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4060	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of OPW nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.

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Application Number	Applicant	Description
TC-4061	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4062	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4063	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4064	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4065	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4070	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4071	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.

Application Number	Applicant	Description
TC-4072	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4073	Atlantic Richfield Company	Stage II vapor recovery balance-type system consisting of Emco Wheaton nozzles, hoses, adapters, breakaway safety valves and miscellaneous equipment.
TC-4075	Atlantic Richfield Company	Four double-wall fiberglass tanks and piping, spill containment basins, tank monitor, overflow alarm, sumps and automatic shutoff valves at a newly constructed business.
TC-4078	Atlantic Richfield Company	Four double-wall fiberglass tanks and piping, spill containment basins, tank monitor, sumps and automatic shutoff valves at a newly constructed business.
TC-4080	Floyd Smith	22' x 80' x 300 clear span, steel construction, metal clad grass seed straw storage building.
TC-4081	Edward Ferschweiler	22' x 60' x 100 stick-on-stud, metal clad grass seed straw storage building.
TC-4084	Pacific Detroit Diesel-Allison, Inc.	Water pollution control facility consisting of a truck washing/degreasing pad with a zero-discharge wash water recycling system.
TC-4085	J.S.G., Inc.	GK Spray Buggy (air pollution control equipment).

Application Number	Applicant	Description
TC-4086	Roger A. Ruckert	77-acre perforated pipe drainage tile installation (air pollution control facility).
TC-4087	Grunder Equipment Repair	Vehicle air conditioner coolant recovery and recycling equipment.
TC-4090	Sayer Farms	22' x 104' x 216' pole construction, metal clad grass seed straw storage building.
TC-4094	Chandler Enterprises, Inc.	Automobile air conditioner coolant recovery and recycling equipment.
TC-4096	Portland Service Station Supply	Air conditioner/refrigeration coolant recovery and recycling equipment.
TC-3940	Precision Castparts Corp.	Air pollution control facility to control the emissions of ethyl-alcohol and glycol ethers consisting of a Reeco model VF-C thermal oxidizer, baghouse system modifications and support equipment.
TC-3942	Precision Castparts Corp.	Air pollution control facility to control the emissions of ethyl-alcohol and glycol ethers consisting of a Reeco model VF-C thermal oxidizer, baghouse system modifications and support equipment.
TC-3949	Finley Buttes Landfill Company	Solid waste pollution control facility consisting of a landfill liner and leachate collection system for one landfill cell.

The Department also recommended: 1) approval of the transfer of pollution control tax credit certificate 2953 from James D. Bao and Thuy Thu Luong to D & D Gas, Inc.; and 2) approval of a request by Smurfit Newsprint Corporation for a time extension to file a tax credit application.

Commissioner Lorenzen questioned whether the sprayer in Application TC-4085 would be used 100 percent for pollution control and thus be fully eligible. Mr. Huston reminded the Commission that they could determine the percent allocable. Commissioner Lorenzen also asked whether the Finley Buttes application was submitted prior to the recently adopted rules; staff responded that it was.

Commissioner Lorenzen moved that application TC-4085 be deferred until more information could be provided and that the remaining application be approved as recommended by the Department. The motion was seconded by Commissioner Castle and unanimously approved.

Jim Britton, representing the Department of Agriculture, arrived at the meeting so the Commission returned to application TC 4085. Mr. Britton explained that the applicant had extensive acreage and used composting rather than open burning. He stated that the applicant made the case that the sprayer covered in the application was used only in relation to the pollution control activities.

Commissioner Lorenzen moved that application TC 4085 be approved. The motion was seconded by Commissioner Castle and unanimously approved.

C. Rule Adoption: Amendments to the Rules for Hazardous Waste Disposal Facilities

This agenda item proposed adoption of three changes to the hazardous waste rules as presented in Attachment A of the staff report and summarized as follows:

1. Amend class-three permit modification rules for hazardous waste disposal sites to change final decision authority from the Commission to the DEQ Director or designee.
2. Amend the financial assurance rules to clarify that permittees of hazardous waste disposal facilities may choose other financial mechanisms rather than just one, equivalent to the federal hazardous waste program.
3. Adopt the federal Resource Conservation and Recovery Act (RCRA) Corrective Action Management Unit (CAMU) rule to improve the effectiveness of cleanups at hazardous waste facilities.

Chair Wessinger asked for an explanation of the CAMU rule. Dave St. Louis of the Hazardous and Solid Waste Division explained that the rule allows treatment and management of waste on site in a setting where corrective action is occurring at a hazardous waste management facility. Without the rule, a RCRA permit would have to be obtained to manage the waste on site during corrective action.

Commissioner Lorenzen moved that the rules be adopted as presented in Attachment A of the staff report. The motion was seconded by Commissioner Castle and unanimously approved.

Stephanie Hallock noted that the Commission has been asked to adopt various rules related to hazardous waste in a piecemeal fashion and volunteered to schedule a work session discussion of the hazardous waste program to give the Commission a better overall context for the program. The Commission agreed that would be helpful.

D. Anodizing Inc. New Source Review Variance Request

Anodizing Inc. has requested a variance from the air quality rules requiring new source review for major sources of volatile organic compounds (VOC) in ozone non-attainment areas. The matter was first considered at the December 11, 1992, Commission meeting. At that time, the request was withdrawn pending clarification from the EPA regarding the authority of the Commission to grant a variance under the federal law. It has since been determined that the Commission does have authority to grant a variance, but such variance would have to be adopted through the rulemaking process as a State Implementation Plan (SIP) revision.

New source review requirements include state-of-the-art controls equipment and offsets for 110 percent of remaining emissions for ensuring new air quality benefits in non-attainment areas. Anodizing Inc. would like to exceed the 40-ton per year threshold for new source review requirements by up to 10 tons with no emission controls for a period ending March 1997. In return, they offer to give up their right to construct a separate facility under an old permit for Pacific Coatings Inc. which had a plant site emission limit of 66.4 tons per year.

The Department recommended denial of the variance request on grounds that it does not represent a unique circumstance, that it violates the new source review policy of requiring technological controls in addition to emission offsets and that such a variance would likely result in a new environmental detriment.

Mr. Greenwood provided background on the request. He noted there was now agreement that the Commission could grant a variance, however, a source-specific SIP revision would be required. He indicated that there was also agreement on the facts related to the matter. He explained the new source review requirements in relation to the Portland ozone non-attainment area. He noted that any new source in the non-attainment area would have to first provide the very costly controls to achieve LAER (Lowest Achievable Emission Rates), then find offsets for the remaining emissions at a 1.1-to-1 ratio and submit an alternatives analysis. He stated that these are very tough requirements. He noted that Anodizing is asking that a variance be granted to excuse them from the LAER requirements which would allow them to expand production for a five-year period by only providing offsets achieved by closing down the Pacific Coatings plant. Mr. Greenwood concluded by stating the Department position that a new source would not be allowed to go in with offsets only, and the circumstances outlined by the company did not meet the test of *special circumstances* required by the statute to grant a variance.

Ms. Sims noted that the Anodizing facility currently has no controls for VOC and, therefore, it is not a case of some controls but not enough.

Michael Davis, Manager of the Anodizing plant, and **Lew Rink**, President of Anodizing, Inc., read statements in support of granting the variance into the record. They reviewed the history of their request and indicated that granting of a variance was justified based on at least three factors: 1) the cost for installing LAER technology was excessive; 2) based on market factors, they project that their market will decline such that the increased capacity and the variance will only be needed for five years; and, 3) their offer to relinquish the 66-ton emission allowance for the Pacific Coatings plant, if the variance is granted, will result in a net environmental gain.

Commissioner Lorenzen asked about the timing of the purchase of the Pacific Coatings facility. Mr. Rink responded that they committed to purchase Pacific Coatings in September 1990 and first talked to the Department about a variance in February 1991.

Chair Wessinger noted that the company estimated that product demand would drop by 20 percent per year, therefore, it would seem that a variance would only be needed for one year. Mr. Rink responded that the product demand was not that predictable.

Mr. Rink stated that it had been two years since their request was made. He stressed that the company had permits to emit 106 tons and was offering to turn back most of it in exchange for a variance. He stated that if they had it to do over again, they would not have shut down the Pacific Coatings facility. He urged the Commission to approve the variance request. He noted that it would be cheaper to reactivate Pacific Coatings than to install controls at the Anodizing plant.

Commissioner McMahan asked what happens when a permit expires. Ms. Sims responded that if a renewal application is filed for an operating plant, the old permit remains in effect until action is taken on the application. If the plant is shut down, they have one year to submit plans for reactivation, with equipment to meet standards. The emission credits can be carried over.

Commissioner Castle asked about the need for a case-by-case SIP modification. Mr. Huston responded that to grant a variance, the SIP would have to be amended. Since the SIP is adopted by rule, any amendment must be adopted through the rulemaking process. Mr. Huston also reminded the Commission that at the prior Commission consideration of the issue, he had expressed an opinion regarding the procedural process and questions whether a variance could be granted. Based on further research, his earlier view had changed. He also reminded the Commission that the Department had opposed the variance on the merits, not procedural grounds, when the Commission last considered the matter.

Commissioner Whipple asked for clarification of the permit issued in 1988. Mr. Rink responded that the company went for a permit to emit 39.9 tons because any more would have triggered LAER and required them to install the necessary control equipment to meet LAER.

Lynne Perry, attorney for Anodizing, noted that the bottom line was that the company was proposing a net reduction in emissions in the Portland non-attainment area.

Commissioner Whipple summarized her position relative to the company's justification for a variance. She stated that arguments based on cost and market projections were not at all persuasive. Pollution control is a cost of doing business and the Department does not make business decisions. The only potential justification related to the issue of the potential for a net environmental gain. Mr. Greenwood agreed with Commissioner Whipple and noted that the Department is sympathetic to the net environmental gain argument. However, any new or expanded source that exceeds the 40-ton threshold must install LAER and purchase offsets such that there is a net environmental gain. He noted that Anodizing could sell the emission credits from the Pacific Coatings Plant but only to a company that had

already installed LAER. Commissioner Whipple indicated she understood the Department's position but still had a question of whether there would be a net gain for the airshed.

Mr. Rink restated the position of the company that they would permanently give up the balance of the Pacific Coatings' 66 tons if the variance (for 10 tons) was granted for a five-year period.

Commissioner Whipple indicated her conclusion at that point would place her on the side of denial. Commissioner Lorenzen indicated he would defer to staff judgment to some extent on the technical issues and leaned toward denial.

Commissioner McMahan indicated she would also support denial because she did not believe the stated justifications for the variance qualified as special circumstances.

Commissioner Castle said he would favor granting the variance. He respected the staff analysis on the technical and program issues. He did not concur with the company on the market forecast justification. He felt, however, there would be a net environmental benefit that would justify the variance.

Chair Wessinger indicated he would be inclined to grant a variance, however he would limit the variance increment to ten tons in 1993, eight tons in 1994, six tons in 1995, four tons in 1996, two tons in 1997 and zero tons in 1998 because that is all the company proposal indicates they really need.

After some discussion, the Commission reached consensus that the offer of the company to relinquish their claim to the Pacific Coatings 66-ton permit was a unique factor that constituted a special circumstance in relation to a variance. They also understood that a variance would not be effective until the rulemaking process had been completed to amend the SIP and the EPA had approved the SIP amendment.

It was moved by Commissioner Lorenzen that the Commission indicate its intent to approve a variance and related SIP revision which would allow emissions for the Anodizing, Inc. facility of 49.9 tons in 1993, 47.9 tons in 1994, 45.9 tons in 1995, 43.9 tons in 1996 and 41.9 tons in 1997. In 1998 and subsequent years, emissions could not exceed the 39.9 tons otherwise allowable. The motion was seconded by Commissioner Castle. Mr. Huston indicated the need for the Commission to articulate their findings of special circumstances to support the variance. By consensus, the Department was directed to develop the findings for consideration by the Commission when the matter comes back for formal approval of the SIP revision. The motion was approved with Commissioners Castle, Whipple, Lorenzen and Chair Wessinger voting yes, and Commissioner McMahan voting no.

E. Request for Commission Review of the Water Pollution Control Facilities (WPCF) Permit Issued to Guide Dogs for the Blind on June 9, 1993

Mr. Derald Bleu, on behalf of himself and the Kelso Road Area Neighborhood Group and the Kelso Area Neighborhood Association, had requested Commission review of the WPCF permit issued by the Department to Guide Dogs for the Blind, Inc. on June 9, 1993. Mr. Bleu had provided two letters indicating reasons for the requested review. The letters were attached to the Department staff report on the item.

Pursuant to procedures, standards and guidance contained in rules adopted by the Commission, the Department reviews permit applications and takes action to issue or deny requested permits. State law specifies procedures for judicial review of an agency decision (order). Judicial review of contested case orders is assigned to the Oregon Court of Appeals. Judicial review of orders other than contested cases is assigned to the Circuit Court in Marion County or the county where the petitioner resides or has a principal business office. A petition for review must be filed within 60 days of the agency decision (order). The Department's determination on a permit application is not a contested case order; therefore, review is in the circuit court.

In prior discussions, the Commission has agreed that any citizen may informally ask the Commission to initiate a review of a decision by the Department to issue a permit. During discussions on this unofficial review option, Commission members indicated their expectation that very few reviews would be initiated in this manner. However, if Commission members were persuaded that an error may have occurred or that policy direction was unclear, their action to initiate review may be preferable to circuit court review. This informal review process is not directed by statute, and the Commission is not obligated to initiate a review when requested.

The Department recommended that the Commission decline to initiate review of this permit decision. The Department expressed the view that if the Commission were persuaded to initiate a review, it would find that the Department followed the established procedural rules for review of the permit application and issuance of the permit and properly interpreted and applied the environmental protection standards related to wastewater disposal.

Mr. Derald Bleu made a statement to the Commission by speaker phone since he was out of the state. He read a letter which was faxed to the Commission on the day of the meeting and is made part of the record. He encouraged the Commission to review the (permit issuance) policies and recommend discontinuance of approving kennel waste in septic systems until a proven system is developed under acceptable research practices.

Commissioner Lorenzen expressed his understanding that the Commission would take information to determine whether or not to review the permit. It would not actually review the permit at this time. In response to a question from Commissioner Lorenzen, Anne Cox of the Department's Northwest Region Office staff stated that the Department followed the procedures of Oregon Administrative Rules (OAR) Chapter 340, Division 14 rules for issuance of the Water Pollution Control Facility (WPCF) permits. She also noted that information available on canine waste indicates that septic tank/drainfield disposal systems must be designed and operated to deal with a higher level of inert solids and hair. This involves screening for hair removal and more frequent pumping for solids removal. Septic tank disposal systems are widely used for canine wastes at kennels without problems.

Commissioner Lorenzen asked Mr. Bleu about information to support his belief that septic tank systems will not work for dog waste. Mr. Bleu cited the failure of a system in Coos Bay as evidence.

Commissioner Castle indicated that no information had been provided which persuaded him of the need for Commission review and moved to deny the request for review of the WPCF permit issued to Guide Dogs for the Blind, Inc. The motion was seconded by Commissioner Lorenzen and unanimously approved.

F. Tualatin River Watershed Nonpoint Source Management Implementation and Compliance Schedule and Order

This agenda item is a follow up to the Thursday work session discussion and recommends that the Commission adopt a new implementation/compliance schedule and order for the Tualatin River watershed as presented in Attachment B of the staff report and authorize continued activities retroactive to June 30, 1993. This approach will allow activities to continue in the Tualatin River watershed while issuing an order that will require continued aggressive implementation of nonpoint source control efforts.

Although considerable progress has been made by the Designated Management Agencies (DMAs) responsible for implementing programs to reduce nonpoint source pollution in the Tualatin River watershed, the TMDL for phosphorous was not met by the June 30, 1993, compliance date set in rule. The Commission has the authority to

allow continued activities beyond the compliance date. At the January 29, 1993, EQC meeting the Commission was briefed and concurred with the Department's preference to develop a new implementation/compliance schedule extending beyond the date set in rule. The proposed new schedule was reviewed by the public. If adopted, the status of the river and pollution control efforts would be reevaluated at the end of 1995 and decisions about continued activities beyond 1995 would be made at that time.

Andy Schaedel of the Water Quality Division staff reviewed the process used to develop the schedule and the tasks subjects in the schedule. He also presented a proposed addendum which presented further clarification of language associated with tasks 3, 5, 9, and 14 of the compliance schedule and presented a revised copy of the proposed schedule and order (Attachment B, Revised July 21, 1993). The addendum is made part of the record of the meeting.

David C. Noren, county counsel for Washington County, indicated that under the wording of the existing rule, the county is not responsible for implementation. However, the county agrees with the need and will cooperate with implementation efforts.

Commissioner Castle moved that the Tualatin River Watershed Nonpoint Source Management Implementation/Compliance Schedule and Order as presented in the addendum to the staff report be adopted. The motion was seconded by Commissioner Whipple and unanimously approved.

G. Information Item: Instream Water Rights

This agenda item presented information on the Department's proposal to submit applications to the Water Resources Department for instream water rights for the Pudding, Tualatin and Yamhill River Basins. These three basins have been designated water quality limited and, therefore, require the establishment of TMDLs. The TMDLs have been based on statistical estimations of minimum instream flows. The purpose of the instream water rights is to attempt to assure maintenance of the flows that are the basis for the TMDLs.

Director Hansen advised the Commission that it was not necessary to bring this item to the Commission; however, it was scheduled because of the interest previously expressed by members.

Commissioner Castle questioned what would be accomplished by acquiring a right at this time when most streams are already over appropriated. Joe Edney of the Water Quality Division staff responded that little would be accomplished in the short run but there was potential to see some restoration of a minimum flow over the long term. This could be accomplished by several mechanisms that have the effect of cancelling or reassigning senior water rights. Steve Brown representing the Water Resources Department explained some of the procedures for processing applications. Director Hansen noted that the amount of an instream right could be reduced in the future if it was later determined that the full amount was not needed.

Jeffrey Bachman, representing Northwest Environmental Defense Center, indicated that instream rights should be secured to assimilate the pollutants being discharged today rather than the projected pollutant load after reduction to meet the TMDLs. He stated that a safety factor is needed.

Commissioner Lorenzen indicated that the program makes sense but not in every case. Specifically, he stated that an instream right for the entire flow of the Columbia to protect the dioxin TMDL did not make sense to him.

After further discussion, Commissioner Castle moved that the Commission approve the action of the Director to submit instream water rights applications as presented in the staff report. The motion was seconded by Commissioner McMahan. In discussion, Commissioner Lorenzen expressed concern about the motion relative to the Commission's role and indicated a preference for Commission concurrence rather than approval. Commissioner Castle withdrew his earlier motion and moved that the Commission concur with the Director's action as presented in the staff report. Commissioner Lorenzen seconded the motion, and it was unanimously approved.

The Commission then recessed the meeting for lunch.

H. Commission Member Reports

There were no Commission Member Reports.

I. Director's Report

Director Hansen reported on the following items:

- **Weyerhaeuser Penalty** -- Weyerhaeuser has paid a civil penalty of \$247,738 for air quality violations at its North Bend paper production mill. This is the largest air quality penalty the Department has assessed. The Department found the company out of compliance with particulate emissions limits and sulfur dioxide standards. Weyerhaeuser has since attained compliance with particulate standards and has taken steps to comply with the sulfur dioxide limit.
- **Industrial Oils, Inc. Fined** -- The Department assessed Industrial Oils, Inc. four civil penalties amounting to \$171,575. The violations were documented during a multi-media inspection of the Klamath Falls facility. The penalties are for hazardous and solid waste, used oil management and oil spill violations; air and water quality violations; and on-site sewage disposal violations. Industrial Oils is owned by W. L. Briggs, who is also the owner of Fuel Processors in Portland. DEQ recently fined Fuel Processors \$548,244 for hazardous waste violations. Mr. Briggs and Fuel Processors were also charged with hazardous waste crimes by the Multnomah County District Attorney's Office. The District Attorney, the Department, Mr. Briggs and Fuel Processors are negotiating a plea agreement which could encompass the criminal action and the Department's civil action at both Industrial Oils and Fuel Processors. The agreement will address cleanup of the facilities, compliance with all environmental laws and payment of civil and criminal penalties.
- **Environmental Crimes Bill Becomes Law** -- Governor Barbara Roberts signed Senate Bill 912 into law on July 22. The bill creates felony and misdemeanor authority for the crimes of unlawful air pollution, unlawful water pollution, unlawful treatment, storage and transportation of hazardous waste; supplying false information to the Department; and environmental endangerment. Violations of the air, water and hazardous waste laws committed knowingly will be Class B felonies with fines up to \$100,000 and ten years in jail. Under the Act, a person commits the crime of environmental endangerment if the person knowingly commits a felony and places another person in imminent danger of death or serious physical injury. The bill provides a penalty up to \$1,000,000 and 15 years in jail, or \$5,000,000 for a second conviction of the crime of environmental endangerment.

- **Two Oregon Sites Proposed for EPA's National Priorities List** -- The EPA has proposed adding two Oregon sites to its National Priorities List. The NPL identifies sites in the nation most contaminated with hazardous substances. The two sites are McCormick & Baxter Creosoting in North Portland and the White King and Lucky Lass Uranium Mines, northwest of Lakeview in the Fremont National Forest. The EPA will decide whether to formally list the two sites following a 60-day comment period.
- **Notice of Intent to File Suit** -- On July 9, Northwest Environmental Advocates notified the City of Portland of its intent to file suit against the City under the RCRA because of the significant role Portland plays in polluting the Willamette River. The Department has asked legal counsel to review the notice of intent.
- **Pulp Mill Contested Case Update** -- The Commission granted petitions submitted by Boise Cascade and James River Corp. for reconsideration of the AOX provision of the Commission's April 14, 1992, order. The order specifies that a hearing will be scheduled during the period between July 1, 1993, and November 30, 1993. The Chair also requested the mills to submit progress reports by July 1, 1993. Both mills have submitted their reports and they are currently being evaluated by the Department. We expect to bring a proposal to you at the September meeting for the next steps in the reconsideration. There is no action required of the Commission at this time.
- **Riverbend Landfill Permit Renewed** -- A permit renewal was issued to Riverbend Landfill Company, Inc. on July 1. The company met several conditions for the Yamhill County landfill prior to the permit renewal. These include a groundwater and surface water beneficial use survey; a workplan for additional hydrogeological investigation; a *scope of work* for a remedial investigation; and a financial assurance plan update. Approximately 300 concerned citizens attended an April 14 public hearing on the permit renewal. Of those attending, about 40 submitted comments.
- **Hansen Appointed to Policy Committee of Tillamook Bay Estuary Project** -- Director Fred Hansen is one of seven people recently appointed by Governor Roberts to the policy committee of the Tillamook Bay National Estuary Project. The project is an inter-governmental effort funded by the EPA to evaluate problems and management strategies for the Tillamook Bay watershed. The policy committee has received \$155,000 from the EPA and is beginning a nationwide search for a project director. The policy committee will also set goals and objectives for the estuary project and approve plans and budgets.

- **Hearing Authorizations**

1. Proposed adoption of amendments to stationary source air quality emission standards and requirements. The amendments address:
 - * new source performance standards;
 - * national emission standards for hazardous air pollutants,
 - * new source review;
 - * air quality highest and best practicable treatment and control rule.
2. Revision to the motor vehicle fuel specifications for oxygenated gasoline. This proposal would raise the average oxygen content in wintertime motor vehicle fuel from 2.7 percent to a minimum of 2.9 percent to meet the EPA contingency plan requirements. Also contains housekeeping amendments.
3. Revision of the State Implementation Plan to reflect changes in the vehicle inspection program. This proposal would update the Vehicle Inspection/Maintenance program in the Medford and Portland areas to meet new the EPA requirements. Major program changes include:
 - * upgrading from manual to computerized exhaust pollution testing equipment;
 - * revising the process of retraining and certifying DEQ inspectors;
 - * developing a more comprehensive quality assurance system for program operations.

- **Portland Delivers Draft CSO Facilities Plan** -- The City of Portland has delivered its draft CSOs facilities plan to the Department. The plan outlines how Portland intends to comply with its obligation under a Stipulated and Final Order to reduce CSOs by the year 2011. The plan contains an executive summary as well as individual reports covering planning, Cornerstone Projects, control alternatives, and public education and involvement. The final plan is due in April 1994. Portland currently discharges raw sewage into the Willamette River and Columbia Slough through 55 outfalls during periods of rain. The CSOs dump approximately six billion gallons of stormwater and sewage into the Willamette and Columbia Slough every year. That adds up to about 1,600 hours of water quality violations annually.

Director Hansen also reported on the collaborative effort being developed jointly with Commissioner Lindberg of the City of Portland. This effort will involve a panel consisting of two city commissioners, two EQC members and the DEQ and Bureau of Environmental Services Directors. This panel will be involved in a six-month public process to look at value issues related to long-term management of the river in Portland.

J. Report on Legislation

Director Hansen reported on the status of legislation. The Department was quite successful on the budget. The only problem is with funding for orphan site cleanup and that is still being worked on. In addition, two air quality bills were still awaiting final action. Only two of the Department's bills were rejected: wellhead protection and the tax credit bill. Director Hansen reported that the Legislature generally had a high level of respect for the Department staff.

Commissioner Castle reported on a recent significant event at Oregon State University. He had been asked by the university president to prepare a report and recommendations relative to the Extension Service. The President had accepted his report and directed a significant reorganization and redirection to achieve a new university wide mission in *Extended Education*.

There was no further business, and the meeting was adjourned.

Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item B
September 10, 1993 Meeting

Title:

Approval of Tax Credit Applications

Summary:

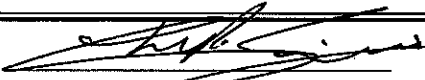
Attachment A of the staff report presents the Department's evaluation and recommendation for certification of 47 tax credit applications with a total facility cost of \$4,165,169 as follows:

- 32 Underground Storage Tank facilities with a total facility cost of \$ 3,555,897.
- 4 Field Burning related applications recommended by the Department of Agriculture with a total facility cost of \$ 358,001.
- 4 Water Quality facilities with a total facility cost of \$ 225,935.
- 6 Refrigeration coolant recycling facilities with a total facility cost of \$ 14,718; and
- 1 Plastics recycling facility with a cost of \$ 10,618.

Attachment A also includes a request to revise Certificate # 3048 to indicate that the James River Paper Company, Inc. and not James River II, Inc. is the correct designee. James River II, Inc. was merged into the James River Paper Company, Inc. prior to the approval of the certificate, although the DEQ was not notified of this fact until after the certificate had been approved.

Department Recommendation:

- 1) Approve issuance of tax credit certificates for 47 applications as presented in Attachment A of the staff report.
- 2) Approve the revision to Pollution Control Facility Certificate # 3048.


Report Author


Division Administrator


Director

August 11, 1993

State of Oregon
Department of Environmental Quality

Memorandum[†]

Date: September 10, 1993

To: Environmental Quality Commission
From: Fred Hansen, Director *Lydia Taylor*
Subject: Agenda Item B, September 10, EQC Meeting
Approval of Tax Credit Applications

Statement of the Need for Action

This staff report presents the staff analysis of pollution control facilities tax credit applications and the Department's recommendation for Commission action on these applications. The following is a summary of the applications presented in this report:

Tax Credit Application Review Reports:

Application Number	Applicant	Description
TC 3752	The Halton Company	Model SD RGF Ultrasorb Water Pretreatment Sewer Discharge System, pumping station, wash water collection pit modifications, backflow piping and devices and equipment containment building.
TC 3851	Scott Miller, Inc.	A 144' x 60' x 22' pole frame, metal clad, three sided grass seed straw storage shed.
TC 3958	Golden Valley Farms	Two 100' x 208' x pole construction, metal clad, grass seed straw storage sheds.
TC 3961	Vahan M. Dinihanian	A 1620 HD5 2K 40 HP hook rotor plastics granulator.

[†]A large print copy of this report is available upon request.

TC 3983	Portland General Electric Co.	Two STI-P3 tanks and double wall fiberglass piping, spill containment basins, tank monitor, overfill alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery piping.
TC 3984	Portland General Electric Co.	Two STI-P3 tanks and double wall fiberglass piping, spill containment basins, tank monitor, overfill alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery piping.
TC 3998	Portland General Electric Co.	Fiberglass piping, cathodic protection, spill containment basins, tank monitor, turbine leak detectors, overfill alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.
TC 3999	Portland General Electric Co.	Three double wall aboveground tanks, spill containment basins, tank monitor, overfill alarm, monitoring wells, sumps, automatic shutoff valves, an oil/water separator and Stage I and II vapor recovery equipment.
TC 4000	Portland General Electric Co.	Two fiberglass underground storage tanks, fiberglass piping, interstitial monitoring, line leak detectors, float vent valves, overfill alarms, spill containment basins and Stage II vapor recovery piping.
TC 4001	Portland General Electric Co.	Two double wall STI-P3 tanks, double wall piping, cathodic protection, spill containment basins, tank monitor, overfill alarm, monitoring wells, Sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.

TC 4002	Portland General Electric Co.	Five STI-P3 tanks, double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.
TC 4022	Western Stations Co.	Four steel/composite tanks, double wall, fiberglass piping, spill containment basins, tank monitor, turbine leak detectors, overflow alarm, monitoring wells, sumps, Stage I and II vapor recovery equipment and automatic shutoff valves.
TC 4025	Leathers Oil Co.	Four STI-P3 tanks and fiberglass piping, spill containment basins, monitoring wells, sumps, Stage II vapor recovery equipment and automatic shutoff valves.
TC 4033	Chevron USA, Inc.	Four double wall fiberglass underground storage tanks, double wall fiberglass piping, spill containment, overflow protection leak detection and Stage II vapor recovery equipment.
TC 4034	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4035	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4038	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4039	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

TC 4040	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4041	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4042	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4043	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4044	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4045	Chevron USA, Inc.	Spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4050	Stein Oil Co.	Double wall fiberglass piping, spill containment basins, turbine leak detectors, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.
TC 4056	Stein Oil Co.	Double wall fiberglass piping, spill containment basins, line leak detectors, turbine leak detectors, monitoring wells, sumps, Stage I and II vapor recovery equipment and automatic shutoff valves.
TC 4057	Stein Oil Co.	Three fiberglass tanks and double wall fiberglass piping, turbine leak detectors, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.

TC 4067	Atlantic Richfield Co.	One fiberglass used oil tank, spill containment basins, tank monitor, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4068	Atlantic Richfield Co.	Double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4069	Atlantic Richfield Co.	Four double wall fiberglass tanks and piping, spill containment basins, tank monitor, overflow alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4076	Atlantic Richfield Co.	Double wall fiberglass piping, spill containment basins, turbine leak detectors, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4077	Atlantic Richfield Co.	Double wall fiberglass piping, spill containment basins, line leak detectors, overflow alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4079	Atlantic Richfield Co.	Double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.
TC 4093	Roseboro Lumber Co.	Three double wall fiberglass tanks and piping, spill containment basins, tank monitor with overflow alarm, automatic shutoff valves and Stage I vapor recovery equipment.
TC 4095	Grunder Equipment Repair	Truck washing/degreasing pad with a zero discharge wash water recycling system.

TC 4097	Robert W. Hays & Michael J. Moran	Four double wall fiberglass tanks and piping, spill containment basins, tank monitor, line and turbine leak detectors, overfill alarm automatic shutoff valves, oil/water separator and Stage II vapor recovery piping.
TC 4098	Bi-Mor Stations, Inc.	Four fiberglass tanks and piping, spill containment basins, tank monitor, line and turbine leak detectors, overfill alarm, monitoring wells, oil/water separator, automatic shutoff valves, Stage I vapor recovery and Stage II piping.
TC 4103	Norma and Itha Reiling	A 120' x 120' x 27' steel frame, metal clad grass seed straw storage building
TC 4105	Hockett Farms	A 22' x 100' x 130' steel frame, metal clad, grass seed straw storage building.
TC 4108	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery equipment.
TC 4109	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery equipment.
TC 4110	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery equipment.
TC 4111	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery equipment.
TC 4112	Temp Control Mech Corp.	Air conditioner/refrigerant coolant recovery equipment.
TC 4113	Western Stations Co.	Three fiberglass/steel composite tanks, double wall fiberglass piping, spill containment basins, tank monitor, overfill alarm, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I and II vapor recovery equipment.

TC 4114	McCracken Motor Freight, Inc.	A secondary containment structure for two above ground fuel storage tanks, an oil/water separator and associated piping and valves.
TC 4116	Riverside Jeep/Eagle	Automobile air conditioner coolant recovery equipment.

Background

There are no tax credit applications with facility costs in excess of \$250,000 for this report. Moreover, there are no notable issues in addition to the approval of the tax credit applications for this report.

Authority to Address the Issue

ORS 468.150 through 468.190 and OAR 340-16-005 through 340-16-050 (Pollution Control Facilities Tax Credit).

ORS 468.925 through 468.965 and OAR 340-17-010 through 340-17-055 (Reclaimed Plastic Product Tax Credit).

Alternatives and Evaluation

None.

Summary of Any Prior Public Input Opportunity

The Department does not solicit public comment on individual tax credit applications during the staff application review process. Opportunity for public comment exists during the Commission meeting when the applications are considered for action.

Conclusions

- o The recommendations for action on the attached applications are consistent with statutory provisions and administrative rules related to the pollution control facilities and reclaimed plastic product tax credit programs.

o Proposed September 10, 1993 Pollution Control Tax Credit Totals:

<u>Certificates</u>	<u>Certified Costs*</u>	<u>No. of Certificates</u>
Air Quality	0	0
CFC	14,718	6
Field Burning	358,001	4
Hazardous Waste	0	0
Noise	0	0
Plastics	10,618	1
Solid Waste - Recycling	0	0
Solid Waste - Landfill	0	0
Water Quality	225,935	4
Underground Storage Tanks	3,555,897	32
	TOTAL \$ 4,165,169	47

1993 Calendar Year Totals Through July 23, 1993:

<u>Certificates</u>	<u>Certified Costs*</u>	<u>No. of Certificates</u>
Air Quality	3,248,754	22
CFC	83,280	29
Field Burning	2,232,436	28
Hazardous Waste	0	0
Noise	0	0
Plastics	12,930	2
Solid Waste - Recycling	1,389,511	10
Solid Waste - Landfill	6,017,022	4
Water Quality	19,269,212	15
Underground Storage Tanks	2,238,839	22
	TOTAL \$ 34,491,984	132

* These amounts represent the total facility costs. To calculate the actual dollars that can be applied as credit, the total facility cost is multiplied by the determined percent allocable of which the net credit is 50 percent of that amount.

Memo To: Environmental Quality Commission
Agenda Item B
September 10, 1993 Meeting
Page 9

Recommendation for Commission Action

It is recommended that the Commission approve certification for the tax credit applications as presented in Attachment A of the Department Staff Report, which include field burning applications recommended by the Department of Agriculture. The Department also recommends the approval of the requested revision to pollution control facility certificate #3048.

Intended Followup Actions

Notify applicants of Environmental Quality Commission actions.

Attachments

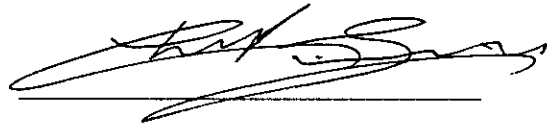
- A. Pollution Control Tax Credit Application Review Reports.
- B. Revised certificate #3048, James River Paper Company, Inc.

Reference Documents (available upon request)

- 1. ORS 468.150 through 468.190.
- 2. OAR 340-16-005 through 340-16-050.
- 3. ORS 468.925 through 468.965.
- 4. OAR 340-17-010 through 340-17-055.

Approved:

Section:



Division:

Report Prepared By: Charles Bianchi

Phone: 229-6149

Date Prepared: August 23, 1993

Charles Bianchi
TCSEPT.EQC
August 23, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

The Halton Company
4421 N.E. Columbia Boulevard
Portland, Oregon 97218

The applicant owns a distributorship of Caterpillar heavy equipment, lift trucks and engines in The Dalles, Oregon.

An application was made for a tax credit for a water pollution control facility.

2. Description of Facility

The facility consists of a system that cleans and pretreats wash water that results from the steam cleaning of machinery parts. The Halton Company steam cleans machinery that ranges from small machine parts to large construction and farming equipment. The facility includes the model SD RGF Ultrasorb Water Pretreatment Sewer Discharge System, a small pumping station, modifications to the existing wash water collection pit, backflow piping and devices, and a building to contain the equipment during the winter months. The useful life of the facility is ten years.

The parts and equipment are cleaned on a wash pad constructed of concrete and sloped such that the wash water flows by gravity to the mud collection pit, also constructed of concrete. Baffles have been added to the east end of the mud collection pit in order to increase the settlement of solids from the wash water and enhance treatment efficiency. A wet pit pumping station consisting of a baffled area, a single pump and a float valve have been installed in the southeast corner of the collection pit. The wash water collects in the pit and is pumped to the RGF Ultrasorb Pretreatment System for treatment with the following processes: aeration, gravity separation, coalescing separation, diffused air flotation, metallic oil separation, solids separation, hydrocarbon absorption, and filtration. A building has been constructed to contain the

RGF treatment system and protect the system from freezing temperatures during the winter months. Backflow piping and controls have been installed so that untreated wash waters will flow back into the collection pit for treatment prior to discharge. The treated water from the RGF Ultrasorb System is piped into the sanitary sewer for complete treatment at the wastewater treatment plant operated by the City of The Dalles.

Claimed Facility Cost: \$25,999
(An Accountant's Certification was provided).

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met the statutory deadline in that:

The facility was substantially completed and placed into operation on December 11, 1990. The application for certification was submitted to the Department on March 12, 1992, within two years of the completion date.

4. Evaluation of Application

- a. The facility is eligible because the sole purpose of the facility is to reduce a substantial quantity of water pollution. This reduction is accomplished by the elimination of industrial waste as defined in ORS 468.700.

In the system used by the Halton Company prior to the installation of the RGF Ultrasorb Pretreatment System, the wash water from the pad flowed by gravity onto the collection pit for discharge to a double drywell system. The wash water passed through the drywell into the surrounding soil, carrying contaminants such as oil, grease, and metals. No form of treatment was provided.

Due to the contamination detected around the drywells during a site remediation project, the drywells have been removed and no wash water will be discharged into the soil through the old system. Wash waters are pretreated and discharged into the sanitary sewer for proper disposal.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity. The wash water is pretreated and then discharged into the sanitary sewer for ultimate disposal.

- 2) The estimated annual percent return on the investment in the facility.

The applicant indicates in the application that there is no income or savings from the facility, so there is no return on investment.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered another alternative for disposing of the wash water by retaining it in a holding tank prior to removal from the site by an appropriate hauler. The option to pretreat the wash water and discharge it into the sanitary sewer proved to be the better alternative since the disposal costs were less. Further, the Halton Company did not want to incur the liabilities associated with the storage, possible spillage, and transportation of the stored wash water. It is the Department's determination that the pretreatment facility is an acceptable method for achieving the pollution control objective.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings from the installation of the facility. The cost of maintaining and operating the facility has been estimated to be \$1,782 as an annual average.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

The applicant submitted receipts totalling \$25,999 for the RGF pretreatment unit, the modifications to the collection pit, the pumping station, the building to contain the RGF unit, and the backflow piping and devices. However, the applicant indicated in the application that the building was constructed larger than needed to contain the pretreatment system so that other equipment could be installed in the future. Additional information was requested to clarify the allocable portion of the cost. The applicant indicated that the cost claimed for the building should be reduced by \$1,090 to account for the additional space. It was agreed that the allocable portion of the claimed facility cost was \$24,909, or 96% of the total cost.

5. Summation

- a. The facility was constructed in accordance with all the regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to reduce a substantial quantity of water pollution. The facility accomplishes this purpose by the elimination of industrial waste as defined in ORS 468.700.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 96%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$25,999 with 96% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-3752.

Pamela Fink:plf
Tax Credit Application No. 3752
(503) 229-6385, extension 248
July 27, 1993

State of Oregon
Department of Agriculture

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Scott Miller, Inc.
14593 French Prairie Road NE
Woodburn, OR 97071

The applicant owns and operates a grass seed farm operation in Marion County, Oregon.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a 144'x60'x22' pole frame, metal clad, three sided, grass seed straw storage shed, located at 4657 Marthaler Road NE, Woodburn, Oregon. The land and buildings are owned by the applicant.

Claimed facility cost: \$38,720
(Accountant's Certification was provided.)

3. Description of farm operation plan to reduce open field burning.

The applicant states that he has made a conscientious effort to avoid open field burning in recent years. The alternative chosen was to remove the straw by baling and sanitize the fields by propane flaming. Timely straw removal has been the major problem. Custom balers have proven unreliable when there is no storage available on-farm. Weather conditions generally ruin the condition of the straw when stacked outside. The straw storage shed stimulates custom baler reliability and timeliness by providing protection for the straw from adverse weather conditions. The facility allows the applicant to avoid stack burning damaged straw or open field burning any of his 220 acres of perennial grass varieties.

4. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16. The facility has met all statutory deadlines in that:

Construction of the facility was substantially completed on May 27, 1992. The application was found to be essentially complete on September 15, 1992 and was considered filed on July 26, 1993, within two years of substantial completion of the facility.

5. Evaluation of Application

a. The facility is eligible under ORS 468.150 because the facility is an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution. This reduction is accomplished by reduction of air contaminants, defined in ORS 468A.005; by reducing the maximum acreage to be open burned in the Willamette Valley as required in OAR 340-26-013; and, the facility's qualification as a "pollution control facility", defined in OAR 340-16-025(2)(f))A): "Facility, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning."

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1. The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility promotes the conversion of a waste product (straw) into a salable commodity by providing protection from adverse weather conditions.

The facility can accommodate 700 tons of baled straw. At three tons per acre, the applicant's 220 acres of perennial varieties produces 660 tons of baled straw. The applicant currently can utilize only 94% of the straw storage shed.

2. The estimated annual percent return on the investment in the facility.

There is no annual percent return on the investment as applicant claims no gross annual income.

3. The alternative methods, equipment and costs for achieving the same pollution control objective.

The method chosen is an accepted method for reduction of air pollution. The method is one of the least costly, most effective methods of reducing air pollution.

4. Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is no claimed savings or increase in costs as a result of the facility.

5. Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air pollution.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of air pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 94%.

6. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible under ORS 468.150 as an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution as defined in ORS 468A.005.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility that is properly allocable to pollution control is 94%.

7. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$38,720, with 94% allocated to pollution control, be issued for the facility claimed in Tax Credit Application Number TC-3851.

Jim Britton, Manager
Smoke Management Program
Natural Resources Division
Oregon Department of Agriculture
(503) 378-6792

jb:kcTC3851
September 15, 1992

State of Oregon
Department of Agriculture

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Golden Valley Farms
7385 Howell Prairie Road NE
Silverton OR 97381

The applicant owns and operates a grass seed farm operation in Marion and Polk County, Oregon.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is two (2) 22' x 100' x 208' pole construction, metal clad, grass seed straw storage sheds, located at 11235 Portland Road, Brooks, Oregon and 24350 Wallace Road NE, Salem. The land and buildings are owned by the applicant.

Claimed facility cost: \$135,333
(Accountant's Certification was provided.)

3. Description of farm operation plan to reduce open field burning.

The applicant has 3,800 acres of perennial grass seed under cultivation. The applicant indicates that prior to 1988 and the company's awareness of straw as a marketable by-product, it was customary to register and open field burn up to one-half of the total grass seed acreage produced annually. The remaining acreage was baled off, propane flamed, and the stacks were open burned.

With capital investment in storage sheds, straw compressors, straw rakes, balers, tractors, forklifts, hay squeezes, and trucks and trailers, the applicant is able to rake the grass straw in windrows, bale it, move it into storage sheds, compress and containerize the bales, and truck it to port for export to Asian markets.

The applicant has been heavily investing in this alternative to open field burning since 1987 and is able to remove the grass straw residue from all acreage without benefit of open field burning.

The applicant estimates that he removes an average of 3.33 tons of baled straw per acre or 12,654 tons. The gross income per ton is approximately \$80.00 and the annual operating costs are approximately \$68.00 per ton. These figures fall within the acceptable range of gross income and expenses for grass straw from field to port of

export. Tom Hartung, Consultant to the Department of Agriculture, Research and Development, verifies the straw income and cost figures.

4. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16. The facility has met all statutory deadlines in that:

Construction of the facility was substantially completed on August 1, 1992. The application for final certification was found to be complete on January 26, 1993. The application was submitted within two years of substantial completion of the facility.

5. Evaluation of Application

a. The facility is eligible under ORS 468.150 because the facility is an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution. This reduction is accomplished by reduction of air contaminants, defined in ORS 468A.005; by reducing the maximum acreage to be open burned in the Willamette Valley as required in OAR 340-26-013; and, the facility's qualification as a "pollution control facility", defined in OAR 340-16-025(2)(f)A): "Facility, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning."

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1. The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility promotes the conversion of a waste product (straw) into a salable commodity by providing protection from inclement weather until the straw is compressed, containerized and shipped.

2. The estimated annual percent return on the investment in the facility.

The applicant has determined the gross annual income projection for the baling and straw marketing business to be \$5,061,600 for the five years and \$4,302,360 projected annual operating expenses for the five years. Cash flow is \$759,240 with an average annual cash flow of \$151,848 for the baling and straw marketing business. The equipment considered for certification is .124 (\$135,332 divided by \$1,087,119) of the total listed equipment and facilities for the business,

producing an average annual cash flow of \$18,829 applicable to the applicant's allocation of costs.

The actual cost of claimed equipment (\$135,332) divided by the average annual cash flow (\$18,829) equals a return on investment factor of 7.187. Using Table 1 of OAR 340-16-030 for a life of 15 years, the annual percent return on investment is 11%. Using the annual percent return of 11% and the reference annual percent return of 17%, 35% is allocable to pollution control.

3. The alternative methods, equipment and costs for achieving the same pollution control objective.

The method chosen is an accepted method for reduction of air pollution. The method is one of the least costly, most effective methods of reducing air pollution.

4. Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is a potential annual savings to the applicant in that registration and burn fees are no longer required to treat the field. Subsequent to 1991 legislation, the savings could be \$10 per acre or \$38,000 for the 3,800 acre farm. Minimum added annual costs to the applicant would be approximately \$18.50 per acre for additional fertilizer (Phosphate and Potash) required because of the straw removal or \$70,300 for the 3,800 acres of grass seed straw baled and placed in storage. The cost figures are derived from a report prepared by Mark Mellbye, OSU District Extension Agent-Field Crops.

Some savings associated with curtailment of open field burning, propane flaming and stack burning are realized by the applicant, but are offset by replacement field treatment methods such as flail chopping, plowing, disking, and chemical control of weeds and pests.

5. Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air pollution.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of air pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 35%.

6. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.

- b. The facility is eligible under ORS 468.150 as an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution as defined in ORS 468A.005.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility that is properly allocable to pollution control is 35%.

7. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$135,333, with 35% allocated to pollution control, be issued for the facility claimed in Tax Credit Application Number TC-3958.

Jim Britton, Manager
Smoke Management Program
Natural Resources Division
Oregon Department of Agriculture
(503) 378-6792

jb:bmTC3958
January 26, 1993

State of Oregon
Department of Environmental Quality

RECLAIMED PLASTIC TAX CREDIT
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Vahan M. Dinihanian
Dinihanian Recycling and Manufacturing
15005 N. W. Cornell Road
Beaverton, OR 97006

The applicant owns and operates a holly farm and a nursery supply business in Beaverton, Oregon. The applicant manufactures wreath frames out of reclaimed plastic.

Application was made for Reclaimed Plastic Tax Credit.

2. Description of Equipment, Machinery or Personal Property

Claimed Investment Cost: \$10,618.00 consisting of:

1620 HD5 2K 40 HP hook rotor plastics granulator to be used exclusively to process obsolete, non-reusable, ABS plastic water bottles into feed stock for manufacture of reclaimed plastic wreath frames.

An invoice was provided.

3. Procedural Requirements

The investment is governed by ORS 468.925 through 468.965, and by OAR Chapter 340, Division 17.

The investment met all statutory deadlines in that:

- a. The request for preliminary certification was received on January 20, 1993. The preliminary application was filed complete on January 21, 1993.
- b. The request for preliminary certification was approved on January 21, 1993, before the application for final certification was made.
- c. The investment was made on June 15, 1993, prior to June 30, 1995.

- d. The request for final certification was submitted on July 15, 1993 and was filed complete on July 27, 1993.

4. Evaluation of Application

- a. The investment is eligible because the equipment is necessary to process reclaimed plastic.
- b. Allocable Cost Findings

In determining the portion of the investment costs properly allocable to reclaiming and recycling plastic material, the following factors from ORS 468.960 have been considered and analyzed as indicated:

- 1) The extent to which the claimed collection, transportation, processing or manufacturing process is used to convert reclaimed plastic into a salable or usable commodity.

This factor is applicable because the sole purpose of this granulator is exclusively to process waste plastic for manufacture into a reclaimed plastic product. The waste plastic is generated by other persons, outside of the applicant's manufacturing facility.

- 2) The alternative methods, equipment and costs for achieving the same objective.

The applicant investigated other individual pieces of equipment and determined that this equipment was most economical and effective to handle the recyclable plastic available for his manufacturing process.

- 3) Any other factors which are relevant in establishing the portion of the actual cost of the investment properly allocable to the collection, transportation or processing of reclaimed plastic or to the manufacture of a reclaimed plastic product.

There are no other factors to consider in establishing the actual cost of the investment properly allocable to reclaiming and recycling plastic material.

The actual cost of the investment properly allocable to processing reclaimed plastic as determined by using

these factors is 100%.

5. Summation

- a. The investment was made in accordance with all regulatory deadlines.
- b. The investment is eligible for final tax credit certification in that the equipment is necessary to process reclaimed plastic.
- c. The qualifying business complies with DEQ statutes and rules.
- d. The portion of the investment cost that is properly allocable to reclaiming and recycling plastic is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Reclaimed Plastic Tax Credit Certificate bearing the cost of \$10,618.00 with 100% allocated to reclaiming plastic material, be issued for the investment claimed in Tax Credit Application No. TC-3961.

WRB:wrb
wp51\tax\tc3961rr.sta
(503) 229-5934
August 6, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Portland General Electric Company
121 SW Salmon St. 1 WTC-10
Portland, OR 97204

The applicant owns and operates a refueling station for company vehicles at 2079 Progress Way, Woodburn OR, facility no. 884.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery piping.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are two STI-P3 tanks and double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery piping.

Claimed facility cost \$ 165,738
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on December 23, 1992 and placed into operation on December 23, 1992. The application for certification was submitted to the Department on February 12, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of two steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - STI-P3 tanks with cathodic protection and double wall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor and monitoring wells.

The applicant also installed Stage I and II vapor recovery piping.

Contamination at the site was reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

The Department concludes that the costs claimed by the applicant (\$165,738) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered the method chosen to be the most cost effective. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>		<u>Amount Allocable</u>
Corrosion Protection:				
STI-P3 tanks & double wall fiberglass piping	\$ 20,686	54	% (1)	\$ 11,170
Spill & Overfill Prevention:				
Spill containment basins	1,012	100		1,012
Overfill alarm	256	100		256
Sumps	1,212	100		1,212
Automatic shutoff valves	1,012	100		1,012
Leak Detection:				
Tank monitor	7,391	90	(2)	6,652
Monitoring wells	300	100		300
Stage I & II vapor recovery piping	880	100		880
Labor & material	<u>132,989</u>	<u>100</u>		<u>132,989</u>
Total	\$ 165,738	94	%	\$ 155,483

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$20,686 and the bare steel system is \$9,482, the resulting portion of the eligible tank and piping cost allocable to pollution control is 54%.

- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water or air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 94%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$165,738 with 94% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-3983.

Barbara Anderson:ew
(503) 229-5870
August 3, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Portland General Electric Company
121 SW Salmon St. 1 WTC-10
Portland, OR 97204

The applicant owns and operates a refueling station for company vehicles at 1705 E. Burnside, Gresham OR, facility no. 864.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery piping.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are two STI-P3 tanks and double wall fiberglass piping, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery piping.

Claimed facility cost \$ 154,732
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on May 31, 1992 and placed into operation on May 31, 1992. The application for certification was submitted to the Department on February 12, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air.. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of six steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - STI-P3 tanks and double wall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor and monitoring wells.

The applicant also installed Stage I and II vapor recovery piping.

Soil and groundwater contamination discovered at the site was reported to DEQ and cleanup is in progress. The applicant stated that cleanup costs were not claimed in the application.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

The Department concludes that the costs claimed by the applicant (\$154,732) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered the method chosen to be the most cost effective. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>		<u>Amount Allocable</u>
Corrosion Protection: STI-P3 tanks & double wall fiberglass piping	\$ 21,121	54	% (1)	\$ 11,405
Spill & Overfill Prevention:				
Spill containment basins	1,012	100		1,012
Overfill alarm	219	100		219
Sumps	1,364	100		1,364
Automatic shutoff valves	1,516	100		1,516
Leak Detection:				
Tank monitor	8,132	90	(2)	7,319
Monitoring wells	6,591	100		6,591
Stage I & II vapor recovery piping	1,706	100		1,706
Labor & material	113,071	100		113,071
Total	\$ 154,732	93	%	\$ 144,203

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$21,121 and the bare steel system is \$9,632, the resulting portion of the eligible tank and piping cost allocable to pollution control is 54%.

- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water or air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 93%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$154,732 with 93% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-3984.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Portland General Electric Company
121 SW Salmon St., 1 WTC-10
Portland, OR 97204

The applicant owns and operates a fueling station for company vehicles at 4245 Kale St NE, Salem OR, facility no. 890.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are fiberglass piping, cathodic protection, spill containment basins, tank monitor, turbine leak detectors, overflow alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.

Claimed facility cost \$ 123,133
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on December 2, 1992 and placed into operation on December 2, 1992. The application for certification was submitted to the Department on March 3, 1993 and was determined complete and filed on June 14, 1993, within two years of completion of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four fiberglass tanks, steel piping with no corrosion protection, and no spill and overfill prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Cathodic protection anodes and fiberglass piping.
- 2) For spill and overfill prevention - Spill containment basins, overfill alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor, monitoring wells and turbine leak detectors.
- 4) For VOC Reduction - Stage I and II vapor recovery piping, hoses and nozzles for two dispenser islands.

Contamination was discovered at the site and reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. This facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$123,133) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered the method chosen to be the most cost effective. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Cathodic Protection	\$ 550	100	%	\$ 550
Fiberglass piping	250	68	(1)	170
Spill & Overfill Prevention:				
Spill containment basins	1,000	100		1,000
Sumps	1,200	100		1,200
Overfill alarm	195	100		195
Automatic shutoff valves	450	100		450
Leak Detection:				
Tank monitor	7,250	90	(2)	6,525
Turbine leak detectors	900	100		900
Monitoring wells	260	100		260
Stage I & II vapor recovery (includes 4 hoses & nozzles @ 2 dispenser islands)	1,315	100		1,315
Labor & material	109,763	100		109,763
Total	\$ 123,133	99	%	\$ 122,328

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$250 and the bare steel system is \$80, the resulting portion of the eligible tank and piping cost allocable to pollution control is 68%.

- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 99%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$123,133 with 99% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-3998.

Barbara Anderson:ew
(503) 229-5870
August 2, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Portland General Electric Company
121 SW Salmon St., 1WTC-10
Portland, OR 97204

The applicant owns and operates a gasoline refueling facility for company vehicles at 14655 SW Old Scholls Ferry Rd., Beaverton OR, facility no. 885.

Application was made for a tax credit for a water pollution control facility involving aboveground and underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are three double wall aboveground tanks, spill containment basins, tank monitor, overfill alarm, monitoring wells, sumps, automatic shutoff valves, an oil/water separator and Stage I and II vapor recovery equipment.

Claimed facility cost \$ 141,146
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on November 1, 1992 and placed into operation on November 1, 1992. The application for certification was submitted to the Department on March 3, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. In the case of the aboveground facility, this is the sole purpose. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of six fiberglass tanks and non corrosion protected piping with no spill and overfill prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall fiberglass piping.
- 2) For spill and overfill prevention - Spill containment basins, sumps, automatic shutoff valves and an overfill alarm.
- 3) For leak detection - Tank monitor and monitoring wells.
- 4) For VOC reduction - Stage I and Stage II vapor recovery piping, hoses and nozzles for two dispensers.

The applicant also installed three double wall aboveground storage tanks.

Contamination discovered at the site was reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

Based on information currently available, the applicant is in compliance with federal law in that a Spill Prevention Control and Countermeasure (SPCC) plan is on file at the facility.

The Department concludes that the costs claimed by the applicant (\$141,146) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered the method chosen to be the most cost effective. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Double wall aboveground tanks	\$4,185	46	% (1)	\$1,925
Double wall fiberglass piping	5,679	74	(2)	4,202
Spill & Overfill Prevention:				
Spill containment basins	1,518	100		1,518
Overfill alarm	225	100		225
Sumps	3,956	100		3,956
Automatic shutoff valves	1,259	100		1,259
Leak Detection:				
Tank monitor	11,242	90	(3)	10,118
Monitoring wells	150	100		150
Stage I & II vapor recovery (includes 4 Stage II hoses & nozzles @ 2 dispenser islands)	4,114	100		4,114
Oil/water separator	1,679	100		1,679
Labor & materials	107,139	100		107,139
	Total \$141,146	97	%	136,285

- (1) The Department has determined the percent allocable on the cost of pollution protected (double wall) aboveground tanks by using a formula based on the difference in cost between the protected tanks and equivalent unprotected tanks as a percent of the protected tanks. Applying this formula to the costs presented by the applicant, where the protected tank cost is \$4,185 and the unprotected tank cost is \$2,265, the resulting portion of the eligible tank cost allocable to pollution control is 46%.
- (2) The Department has determined the percent allocable on the cost of a corrosion protected piping system by using a formula based on the difference in cost between the protected piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$5,679 and the bare steel system is \$1,476, the resulting portion of the eligible piping cost allocable to pollution control is 74%.
- (3) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. In the case of the aboveground facility this is the sole purpose. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 97%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$141,146 with 97% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-3999.

Barbara Anderson:ew
(503) 229-5870
June 29, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Portland General Electric Company
121 SW Salmon St. 1 WTC-10
Portland, OR 97204

The applicant owns and operates a fueling station for company vehicles and heavy equipment at Tower Road, Boardman, OR, facility no. 833.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery piping.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are two fiberglass tanks and fiberglass piping, spill containment basins, interstitial monitoring, overfill alarm, line leak detectors, automatic shutoff valves, sumps and State II vapor recovery piping.

Claimed facility cost \$ 205,628*
(Accountant's certification was provided)

The Department concludes that the eligible facility cost for the project is \$203,888. This represents a difference of \$1,740 from the applicant's claimed cost of \$205,628 due to a determination by the Department that the cost of tank disposal is not eligible pursuant to the definition of a pollution control facility in ORS 468.155.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on September 29, 1992 and placed into operation on September 29, 1992. The application for certification was submitted to the Department on March 3, 1993 and was determined complete and filed on June 23, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air.. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility",

defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of seven steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Fiberglass tanks and piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm and automatic shutoff valves and sumps.
- 3) For leak detection - Interstitial monitoring and line leak detectors.
- 4) For VOC reduction - Stage II vapor recovery piping.

The applicant reported the soil testing was performed at the time of tank removal and minor contamination was found. No corrective action was necessary because the contamination level was below cleanup standards.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection: Fiberglass tanks and fiberglass piping	\$ 32,050	70 % (1)	\$ 22,435
Spill & Overfill Prevention:			
Spill containment basins	400	100	400
Overfill alarm	200	100	200
Sumps	1,300	100	1,300
Automatic shutoff valves	910	100	910
Leak Detection:			
Interstitial monitoring	6,100	100	6,100
Line leak detectors	250	100	250
Stage II vapor recovery piping	430	100	430
Labor & material	162,248	100	162,248
Total	\$ 203,888	95 %	\$ 194,273

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$32,050 and the bare steel system is \$9,570, the resulting portion of the eligible tank and piping cost allocable to pollution control is 70%.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water or air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 95%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$203,888 with 95% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4000.

Barbara Anderson:ew
(503) 229-5870
August 2, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Portland General Electric Company
121 SW Salmon St., 1WTC-10
Portland, OR 97204

The applicant owns and operates a fueling station for company vehicles at 209 Warner Milne Rd., Oregon City OR, facility no. 873.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are two double wall STI-P3 tanks, double wall fiberglass piping, cathodic protection, spill containment basins, tank monitor, overfill alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.

Claimed facility cost \$ 218,888
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on January 15, 1993 and placed into operation on January 15, 1993. The application for certification was submitted to the Department on March 3, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of six steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall STI-P3 tanks, double wall fiberglass piping and cathodic protection.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor, monitoring wells.
- 4) For VOC reduction - Stage I and II vapor recovery piping, hoses and nozzles for one dispenser island.

Contamination discovered at the site was reported to DEQ. The applicant states cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$218,888) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered the method chosen to be the most cost effective. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>		<u>Amount Allocable</u>
Corrosion Protection:				
Double wall STI-P3 tanks & fiberglass piping	\$ 20,536	53	% (1)	\$ 10,884
Cathodic Protection	90	100		90
Spill & Overfill Prevention:				
Spill containment basins	402	100		402
Overfill alarm	256	100		256
Automatic shutoff valves	1,012	100		1,012
Sumps	1,185	100		1,185
Leak Detection:				
Tank monitor	8,050	90	(2)	7,245
Monitoring wells	120	100		120
Stage I & II vapor recovery (includes 2 hoses & nozzles @ 1 dispenser island)	880	100		880
Labor & material	<u>186,357</u>	<u>100</u>		<u>186,357</u>
Total	\$ 218,888	95	%	\$ 208,431

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$20,536 and the bare steel system is \$9,576, the resulting portion of the eligible tank and piping cost allocable to pollution control is 53%.
- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 95%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$218,888 with 95% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4001.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Portland General Electric Company
121 SW Salmon St., 1 WTC-10
Portland, OR 97204

The applicant owns and operates a fueling station for company vehicles at 3700 SE 17th, Portland OR, facility no. 845.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are five STI-P3 tanks, double wall fiberglass piping, epoxy lining in one of the STI-P3 tanks, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.

Claimed facility cost \$ 216,349
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on December 1, 1992 and placed into operation on December 1, 1992. The application for certification was submitted to the Department on March 3, 1993 and was determined complete and filed on June 25, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of six steel tanks and piping with no corrosion protection and no spill and overfill prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - STI-P3 tanks and double wall fiberglass piping. Epoxy lining was added to one of the above tanks.
- 2) For spill and overfill prevention - Spill containment basins, overfill alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor and monitoring wells.
- 4) For VOC reduction - Stage I and II vapor recovery piping, hoses and nozzles for two dispenser islands.

Soil and groundwater contamination found at the site were reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$216,349) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered the method chosen to be the most cost effective. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>		<u>Amount Allocable</u>
Corrosion Protection:				
STI-P3 tanks & double wall fiberglass piping	\$56,020	73	% (1)	\$40,895
Epoxy tank lining	1,770	100		1,770
Spill & Overfill Prevention:				
Spill containment basins	1,250	100		1,250
Sumps	8,000	100		8,000
Overfill alarm	195	100		195
Automatic shutoff valves	1,350	100		1,350
Leak Detection:				
Tank monitor	13,200	90	(2)	11,880
Monitoring wells	500	100		500
Stage I & II vapor recovery (includes 4 hoses & nozzles @ 2 dispenser islands)	4,400	100		4,400
Labor & material	<u>129,664</u>	<u>100</u>		<u>129,664</u>
	Total \$216,349	92	%	199,904

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$56,020 and the bare steel system is \$14,860, the resulting portion of the eligible tank and piping cost allocable to pollution control is 73%.
- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 92%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$216,349 with 92% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4002.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Western Stations Co.
PO Box 5969
Portland, OR 97228-5969

The applicant owns and operates a retail gas station at 11214 SE Division, Portland OR 97266, facility no. 6275.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are four steel/composite tanks, double wall, fiberglass piping, spill containment basins, tank monitor, turbine leak detectors, overfill alarm, monitoring wells, sumps, Stage I and II vapor recovery equipment and automatic shutoff valves.

Claimed facility cost \$ 142,757
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on May 20, 1992 and placed into operation on May 21, 1992. The application for certification was submitted to the Department on April 6, 1993 and determined complete and filed on June 10, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three steel tanks and piping with no corrosion protection and no spill and overfill prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Steel/composite tanks and double wall fiberglass piping.
- 2) For spill and overfill prevention - Spill containment basins, overfill alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor, turbine leak detectors and monitoring wells.
- 4) For VOC reduction - Stage I and II vapor recovery piping, hoses and nozzles on four dispensers.

Contamination discovered at the site was reported to DEQ. The applicant stated that the cleanup has been completed..

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. This facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$142,757) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

The applicant estimated that 96.6% of the claimed facility cost of \$142,757 is allocable to pollution control. The applicant arrived at this estimate by subtracting the cost of bare steel tanks and piping from the total.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Composite tanks & fiberglass piping	\$ 43,390	61	% (1)	\$ 26,468
Spill & Overfill Prevention:				
Spill containment basins	804	100		804
Overfill alarm	195	100		195
Sumps	5,247	100		5,247
Automatic shutoff valves	1,914	100		1,914
Leak Detection:				
Tank monitor	7,569	90	(2)	6,812
Turbine leak detectors	1,064	100		1,064
Monitoring wells	256	100		256
Stage I & II vapor recovery (includes 8 nozzles & hoses on 4 dispensers)	6,282	100		6,282
Labor & materials	76,036	100		76,036
Total	\$ 142,757	88	%	\$ 125,078

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$43,390 and the bare steel system is \$17,017, the resulting portion of the eligible tank and piping cost allocable to pollution control is 61%.
- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 88%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$142,757 with 88% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4022.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Leathers Oil Co.
22300 SE Stark
Gresham, OR 97030

The applicant owns and operates a retail station and cardlock at 18145 SE Division, Portland OR, facility no. 4302.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are four STI-P3 tanks and fiberglass piping, spill containment basins, monitoring wells, sumps, Stage II vapor recovery equipment and automatic shutoff valves.

Claimed facility cost \$ 174,447
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 7, 1993 and placed into operation on March 7, 1993. The application for certification was submitted to the Department on April 9, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three bare steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - STI-P3 tanks and fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, sumps and automatic shutoff valves.
- 3) For leak detection - Monitoring wells.
- 4) For VOC Reduction - Stage II vapor recovery piping, hoses and nozzles on ten dispensers.

Contamination discovered at the site was reported to DEQ. The applicant stated that cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$174,447) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
STI-P3 tanks & fiberglass piping	\$ 25,896	45 % (1)	\$ 11,653
Spill & Overfill Prevention:			
Spill containment basins	1,572	100	1,572
Sumps	9,775	100	9,775
Automatic shutoff valves	1,230	100	1,230
Leak Detection:			
Monitoring wells	278	100	278
Stage II vapor recovery (includes 28 nozzles & hoses on 10 dispensers)	17,560	100	17,560
Labor & materials	118,136	100	118,136
Total	\$ 174,447	92 %	\$ 160,204

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$25,896 and the bare steel system is \$14,347, the resulting portion of the eligible tank and piping cost allocable to pollution control is 45%.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 92%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$174,447 with 92% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4025.

Barbara Anderson:ew
(503) 229-5870
July 27, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 400 W. Burnside, Portland OR 97209, facility no. 1147.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I vapor recovery equipment and Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are four double wall fiberglass underground storage tanks, double wall fiberglass piping, spill containment, overfill protection, leak detection and Stage II vapor recovery equipment.

Claimed facility cost \$ 248,232
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on October 19, 1992 and placed into operation on October 20, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility",

defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall fiberglass tanks and piping.
- 2) For spill and overflow prevention - Spill containment basins, sumps, overflow alarm and automatic shutoff valves.
- 3) For leak detection - Tank monitor and turbine leak detectors.
- 4) For VOC Reduction - Stage II vapor recovery piping, hoses and nozzles for four dispenser islands.

Contamination discovered at the site was reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. This facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$248,232) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Double wall fiberglass tanks & piping	\$ 45,849	51	% (1)	\$ 23,383
Spill & Overfill Prevention:				
Spill containment basins	1,439	100		1,439
Sumps	12,244	100		12,244
Automatic shutoff valves	3,854	100		3,854
Leak Detection:				
Tank monitor (includes overfill alarm)	18,000	90	(2)	16,200
Turbine leak detectors	3,100	100		3,100
Stage II vapor recovery (includes 24 Stage II hoses & nozzles at 4 dispenser islands)				
	2,530	100		2,530
Labor & materials	161,216	100		161,216
Total	\$ 248,232	90	%	\$ 223,966

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$45,849 and the bare steel system is \$22,316, the resulting portion of the eligible tank and piping cost allocable to pollution control is 51%.
- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 90%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$248,232 with 90% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4033.

Barbara Anderson:ew
(503) 229-5870
August 3, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 10950 SE Oak St., Milwaukie OR, facility no. 10332.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 46,900
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 27, 1992 and placed into operation on March 28, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three tanks and piping with no corrosion protection and no spill and overfill prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overfill prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC reduction - Stage II vapor recovery piping, hoses and nozzles on four dispensers.

The applicant reported that no contamination was discovered during construction of this project.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility also is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$46,900) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Spill & Overfill Prevention:				
Spill containment basins	\$ 603	100 %		\$ 603
Automatic shutoff valves	2,463	100		2,463
Stage II vapor recovery (includes 24 hoses & nozzles on 4 dispensers)	3,960	100		3,960
Labor & materials	39,874	100		39,874
Total	\$ 46,900	100 %		\$ 46,900

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.

- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
 - c. The facility complies with DEQ statutes and rules.
 - d. The portion of the facility cost that is properly allocable to pollution control is 100%.
6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$46,900 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4034.

Barbara Anderson:ew

(503) 229-5870

June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 21090 SW Pacific Hwy., Sherwood OR, facility no. 1227.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 44,627
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 31, 1992 and placed into operation on April 1, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible ~~because~~ the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three tanks and piping with corrosion protection, some spill and overflow prevention and leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overflow prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC reduction - Stage II vapor recovery piping, hoses and nozzles on four dispensers.

Contamination found at the site was reported to DEQ. The applicant states cleanup has been completed.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility also is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$44,627) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Spill & Overfill Prevention:				
Spill containment basins	\$ 603	100 %		\$ 603
Automatic shutoff valves	2,463	100		2,463
Stage II vapor recovery (includes 24 hoses & nozzles on 4 dispensers)	3,190	100		3,190
Labor & materials	38,371	100		38,371
Total	\$ 44,627	100 %		\$ 44,627

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.

- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
 - c. The facility complies with DEQ statutes and rules.
 - d. The portion of the facility cost that is properly allocable to pollution control is 100%.
6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$44,627 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4035.

Barbara Anderson:ew
(503) 229-5870
June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 4719 NE Sandy Blvd., Portland OR, facility no. 1040.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 46,490
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 5, 1992 and placed into operation on March 6, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four tanks and piping with corrosion protection, some spill and overfill prevention and leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overfill prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC reduction - Stage II vapor recovery piping, hoses and nozzles on four dispensers.

Contamination found at the site was reported to DEQ. The applicant states cleanup has been completed.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility also is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$46,490) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Spill & Overfill Prevention:				
Spill containment basins	\$ 603	100 %		\$ 603
Automatic shutoff valves	2,463	100		2,463
Stage II vapor recovery (includes 24 hoses & nozzles on 4 dispensers)	2,200	100		2,200
Labor & materials	41,224	100		41,224
Total	\$ 46,490	100 %		\$ 46,490

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.

- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$46,490 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4038.

Barbara Anderson:ew
(503) 229-5870
June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 2230 W Burnside St., Portland OR, facility no. 1087.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 53,911
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 2, 1992 and placed into operation on March 3, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four tanks and piping with corrosion protection, some spill and overflow prevention and leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overflow prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC reduction - Stage II vapor recovery piping, hoses and nozzles on four dispensers.

Contamination found at the site was reported to DEQ. The applicant states cleanup has been completed.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility also is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$53,911) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Spill & Overfill Prevention:				
Spill containment basins	\$ 603	100 %		\$ 603
Automatic shutoff valves	2,463	100		2,463
Stage II vapor recovery (includes 24 hoses & nozzles on 4 dispensers)	2,200	100		2,200
Labor & materials	48,645	100		48,645
Total	\$ 53,911	100 %		\$ 53,911

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.

- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
 - c. The facility complies with DEQ statutes and rules.
 - d. The portion of the facility cost that is properly allocable to pollution control is 100%.
6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$53,911 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4039.

Barbara Anderson:ew
(503) 229-5870
June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 14470 SW Allen Ave., Beaverton OR, facility no. 1233.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 47,953
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 6, 1992 and placed into operation on March 7, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three tanks and piping with corrosion protection, some spill and overflow prevention and leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overflow prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC reduction - Stage II vapor recovery piping, hoses and nozzles on four dispensers.

Contamination found at the site was reported to DEQ. The applicant states cleanup has been completed.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility also is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$47,953) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Spill & Overfill Prevention:				
Spill containment basins	\$ 603	100 %		\$ 603
Automatic shutoff valves	2,463	100		2,463
Stage II vapor recovery (includes 24 hoses & nozzles on 4 dispensers)				
	3,520	100		3,520
Labor & materials	41,367	100		41,367
Total	\$ 47,953	100 %		\$ 47,953

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.

- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$47,953 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4040.

Barbara Anderson:ew
(503) 229-5870
June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 710 SW Columbia, Portland OR, facility no. 1116.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 78,742
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 13, 1992 and placed into operation on March 14, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four tanks and piping with corrosion protection, some spill and overflow prevention and leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overflow prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC Reduction - Stage II vapor recovery piping, hoses and nozzles for seven dispenser islands.

Contamination found at the site was reported to DEQ. The applicant states cleanup has been completed.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. This facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$78,742) are eligible pursuant to the definition of a pollution control facility in ORS 468.155

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Spill & Overfill Prevention:			
Spill containment basins	\$ 603	100 %	\$ 603
Automatic shutoff valves	4,310	100	4,310
Stage II vapor recovery	4,070	100	4,070
Labor & materials (includes 42 Stage II hoses & nozzles at 7 dispenser islands)	69,759	100	69,759
Total	\$ 78,742	100 %	\$ 78,742

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$78,742 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4041.

Barbara Anderson:ew
(503) 229-5870
June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 11747 SW Pacific Hwy., Tigard OR, facility no. 492.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 39,245
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 13, 1992 and placed into operation on March 14, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four tanks and piping with corrosion protection, some spill and overflow prevention and leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overflow prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC reduction - Stage II vapor recovery piping, hoses and nozzles on four dispensers.

Contamination found at the site was reported to DEQ. The applicant states cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility also is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$39,245) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Spill & Overfill Prevention:				
Spill containment basins	\$ 603	100 %		\$ 603
Automatic shutoff valves	2,463	100		2,463
Stage II vapor recovery (includes 24 hoses & nozzles on 4 dispensers)	6,160	100		6,160
Labor & materials	30,019	100		30,019
Total	\$ 39,245	100 %		\$ 39,245

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.

- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$39,245 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4042.

Barbara Anderson:ew
(503) 229-5870
June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 17095 SW TV Hwy., Aloha OR, facility no. 8596.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 44,627
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 16, 1992 and placed into operation on March 17, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three tanks and piping with corrosion protection, some spill and overfill prevention and leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overfill prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC reduction - Stage II vapor recovery piping, hoses and nozzles on four dispensers.

Contamination found at the site was reported to DEQ. The applicant states cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility also is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$44,627) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Spill & Overfill Prevention:				
Spill containment basins	\$ 603	100 %		\$ 603
Automatic shutoff valves	2,463	100		2,463
Stage II vapor recovery (includes 24 hoses & nozzles on 4 dispensers)				
	2,420	100		2,420
Labor & materials	39,141	100		39,141
Total	\$ 44,627	100 %		\$ 44,627

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.

- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$44,627 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4043.

Barbara Anderson:ew
(503) 229-5870
June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 13675 NW Cornell Rd., Portland OR, facility no. 1138.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 49,996
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 21, 1992 and placed into operation on March 22, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four tanks and piping with corrosion protection, some spill and overflow prevention and leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overflow prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC reduction - Stage II vapor recovery piping, hoses and nozzles on four dispensers.

Contamination found at the site was reported to DEQ. The applicant states cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility also is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$49,996) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Spill & Overfill Prevention:				
Spill containment basins	\$ 603	100 %		\$ 603
Automatic shutoff valves	2,463	100		2,463
Stage II vapor recovery (includes 24 hoses & nozzles on 4 dispensers)				
	1,980	100		1,980
Labor & materials	44,950	100		44,950
Total	\$ 49,996	100 %		\$ 49,996

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.

- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$49,996 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4044.

Barbara Anderson:ew
(503) 229-5870
June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Chevron USA, Inc.
2410 Camino Ramon
San Ramon, CA 94583

The applicant owns and operates a retail service station at 11015 SW Canyon Rd., Beaverton OR, facility no. 501.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are spill containment basins, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 50,658
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 30, 1992 and placed into operation on March 31, 1992. The application for certification was submitted to the Department on April 16, 1993 and was determined complete and filed on May 27, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of five tanks and piping with corrosion protection, some spill and overflow prevention and leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For spill and overflow prevention - Spill containment basins and automatic shutoff valves.
- 2) For VOC reduction - Stage II vapor recovery piping, hoses and nozzles on four dispensers.

Contamination found at the site was reported to DEQ. The applicant states cleanup has been completed.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility also is in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$50,658) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Spill & Overfill Prevention:				
Spill containment basins	\$ 603	100	%	\$ 603
Automatic shutoff valves	2,463	100		2,463
Stage II vapor recovery (includes 24 hoses & nozzles on 4 dispensers)				
	3,960	100		3,960
Labor & materials	43,632	100		43,632
Total	\$ 50,658	100	%	\$ 50,658

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.

- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
 - c. The facility complies with DEQ statutes and rules.
 - d. The portion of the facility cost that is properly allocable to pollution control is 100%.
6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$50,658 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4045.

Barbara Anderson:ew
(503) 229-5870
June 28, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Stein Oil Co., Inc.
19805 McLoughlin Blvd.
Gladstone, OR 97027

The applicant owns and operates a retail gas station at 13939 McLoughlin Blvd., Milwaukie, OR, facility no. 7976.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are double wall fiberglass piping, spill containment basins, turbine leak detectors, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.

Claimed facility cost \$ 73,026 *
(Accountant's certification was provided)

* The Department concludes that the eligible facility cost for the project is \$70,526. This represents a difference of \$2,500 from the applicant's claimed cost of \$73,026 due to a determination by the Department that the bare steel piping estimate (\$2,500) should not have been included in the project cost because it was not an expenditure.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on March 19, 1993 and placed into operation on March 19, 1993. The application for certification was submitted to the Department on April 28, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, sumps and automatic shutoff valves
- 3) For leak detection - Turbine leak detectors.
- 4) For VOC reduction - Stage I & II vapor recovery piping, nozzles and hoses on six dispensers.

Contamination discovered at the site was reported to DEQ. The applicant states that cleanup has been completed.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Double wall fiberglass piping	\$ 4,300	42	% (1)	\$ 1,806
Spill & Overfill Prevention:				
Spill containment basins	626	100		626
Sumps	2,774	100		2,774
Automatic shutoff valves	611	100		611
Leak Detection:				
Turbine leak detectors	718	100		718
Stage I & II vapor recovery				
(including 13 nozzles & hoses on 6 dispensers)	9,492	100		9,492
Labor & material	52,005	100		52,005
Total	\$ 70,526	96	%	\$ 68,032

- (1) The Department has determined the percent allocable on the cost of a corrosion protected piping system by using a formula based on the difference in cost between the protected piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$4,300 and the bare steel system is \$2,500, the resulting portion of the eligible piping cost allocable to pollution control is 42%.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 96%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$70,526 with 96% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4050.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Stein Oil Co., Inc.
19805 McLoughlin Blvd.
Gladstone, OR 97027

The applicant owns and operates a retail service station at 17895 Lower Boones Ferry Rd., Lake Grove OR, facility no. 7982.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are double wall fiberglass piping, spill containment basins, line leak detectors, turbine leak detectors, monitoring wells, sumps, Stage I & II vapor recovery equipment and automatic shutoff valves.

Claimed facility cost \$ 66,838
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on June 1, 1992 and placed into operation on June 1, 1992. The application for certification was submitted to the Department on May 3, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, sumps and automatic shutoff valves.
- 3) For leak detection - Line leak detectors, turbine leak detectors and monitoring wells.
- 4) For VOC reduction - Stage I & II vapor recovery piping, nozzles and hoses on four dispensers.

The applicant reported that no contamination requiring cleanup was discovered during construction of the project.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$66,838) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Double wall fiberglass piping	\$ 613	76 % (1)	\$	466
Spill & Overfill Prevention:				
Spill containment basins	893	100		893
Sumps	563	100		563
Automatic shutoff valves	740	100		740
Leak Detection:				
Line leak detectors	220	100		220
Turbine leak detectors	411	100		411
Monitoring wells	88	100		88
Stage I & II vapor recovery (includes 24 nozzles & hoses on 4 dispensers)	15,187	100		15,187
Labor & materials	48,123	100		48,123
Total	\$ 66,838	100 %	\$	66,691

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$613 and the bare steel system is \$148, the resulting portion of the eligible tank and piping cost allocable to pollution control is 76%.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$66,838 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4056.

Barbara Anderson:ew
(503) 229-5870
August 2, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Stein Oil Co., Inc.
19805 McLoughlin Blvd.
Gladstone, OR 97027

The applicant owns and operates a retail gas station at 1511 Mollala Ave., Oregon City OR, facility no. 7980.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are three fiberglass tanks and double wall fiberglass piping, turbine leak detectors, monitoring wells, sumps, automatic shutoff valves and Stage I and II vapor recovery equipment.

Claimed facility cost \$146,072
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on August 25, 1992 and placed into operation on August 25, 1992. The application for certification was submitted to the Department on May 3, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four bare steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Fiberglass tanks and double wall fiberglass piping.
- 2) For spill and overflow prevention - Sumps and automatic shutoff valves
- 3) For leak detection - Turbine leak detectors and monitoring well.
- 4) For VOC reduction - Stage I & II vapor recovery piping, nozzles and hoses on four dispensers and an oil/water separator.

Contamination discovered at the site was reported to DEQ. The applicant stated that cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$146,072) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection: Fiberglass tanks & piping	\$ 18,942	34 % (1)	\$ 6,440
Spill & Overfill Prevention: Sumps	2,806	100	2,806
Leak Detection: Turbine leak detectors	7,356	100	7,356
Stage I & II vapor recovery (includes 24 nozzles & hoses on 4 dispensers)	9,518	100	9,518
Oil/water separator	12,359	100	12,359
Labor & material (includes automatic shutoff valves & monitoring well)	95,091	100	95,091
Total	\$ 146,072	91 %	\$ 133,570

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$18,942 and the bare steel system is \$12,425, the resulting portion of the eligible piping cost allocable to pollution control is 34%.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 91%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$146,072 with 91% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4057.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Atlantic Richfield Company
17315 Studebaker Rd.
Cerritos, CA 90701-1488

The applicant owns and operates a service station at 7220 SW Hazel Fern Rd., Tualatin OR, facility no. 3987.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are one fiberglass used oil tank, spill containment basins, tank monitor, sumps, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 77,695
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on June 22, 1992 and placed into operation on June 22, 1992. The application for certification was submitted to the Department on April 28, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of six steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - One fiberglass used oil tank.
- 2) For spill and overflow prevention - Spill containment basins, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor.
- 4) For VOC reduction - Stage II vapor recovery piping, nozzles and hoses on eight dispensers.

Contamination discovered at the site was reported to DEQ. The applicant stated that cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$77,695) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Fiberglass tank	\$ 3,280	91	% (1)	\$ 2,985
Spill & Overfill Prevention:				
Spill containment basins	1,511	100		1,511
Sumps	329	100		329
Automatic shutoff valves	2,623	100		2,623
Leak Detection:				
Tank monitor	1,059	90	(2)	953
Stage II vapor recovery (includes 16 nozzles & hoses on 8 dispensers)	3,000	100		3,000
Labor & material	65,893	100		65,893
Total	\$ 77,695	99	%	\$ 77,294

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank by using a formula based on the difference in cost between the protected tank and an equivalent bare steel tank as a percent of the protected tank. Applying this formula to the costs presented by the applicant, where the protected tank cost is \$3,280 and the bare steel tank is \$300, the resulting portion of the eligible tank allocable to pollution control is 91%.

- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 99%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$77,695 with 99% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4067.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Atlantic Richfield Company
17315 Studebaker Rd.
Cerritos, CA 90701-1488

The applicant owns and operates a service station at 1151 NE 102nd, Portland OR, facility no. 3938.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are double wall fiberglass piping, spill containment basins, tank monitor, overfill alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 108,316
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on May 2, 1992 and placed into operation on May 2, 1992. The application for certification was submitted to the Department on April 28, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three fiberglass tanks and steel piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor.
- 4) For VOC reduction - Stage II vapor recovery piping, nozzles and hoses on eight dispensers.

Contamination discovered at the site was reported to DEQ. The applicant stated that cleanup has been completed.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$108,316) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Double wall fiberglass piping	\$ 6,129	76	% (1)	\$ 4,658
Spill & Overfill Prevention:				
Spill containment basins	1,519	100		1,519
Overfill alarm	1,496	100		1,496
Sumps	1,102	100		1,102
Automatic shutoff valves	97	100		97
Leak Detection:				
Tank monitor	3,023	90	(2)	2,721
Stage II vapor recovery (includes 16 nozzles & hoses on 8 dispensers)				
	2,250	100		2,250
Labor & material	92,700	100		92,700
Total	\$ 108,316	98	%	\$ 106,543

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$6,129 and the bare steel system is \$1,476, the resulting portion of the eligible tank and piping cost allocable to pollution control is 76%.

- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 98%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$108,316 with 98% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4068.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Atlantic Richfield Company
17315 Studebaker Rd.
Cerritos, CA 90701-1488

The applicant owns and operates a service station at 14555 SW Tualatin Valley Hwy., Beaverton OR, facility no. 3979.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are four double wall fiberglass tanks and piping, spill containment basins, tank monitor, overfill alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 213,121
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on May 5, 1992 and placed into operation on May 5, 1992. The application for certification was submitted to the Department on April 28, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of four steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall fiberglass tanks and piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor.
- 4) For VOC reduction - Stage II vapor piping, nozzles and hoses on eight dispensers.

Contamination discovered at the site was reported to DEQ. The applicant stated that cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$213,121) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>		<u>Amount Allocable</u>
Corrosion Protection:				
Double wall fiberglass tanks & piping	\$ 34,826	53	% (1)	\$ 18,458
Spill & Overfill Prevention:				
Spill containment basins	2,025	100		2,025
Overfill alarm	1,995	100		1,995
Sumps	1,469	100		1,469
Automatic shutoff valves	129	100		129
Leak Detection:				
Tank monitor	2,747	90	(2)	2,472
Stage II vapor recovery (includes 16 nozzles & hoses on 8 dispensers)	3,000	100		3,000
Labor & material	166,930	100	(3)	166,930
Total	\$ 213,121	92	%	\$ 196,478

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$34,826 and the bare steel system is \$16,354, the resulting portion of the eligible tank and piping cost allocable to pollution control is 53%.
- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.
- (3) The high cost of labor in this project was due to the need to relocate a sewer line at the site.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 92%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$213,121 with 92% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4069.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Atlantic Richfield Company
17315 Studebaker Rd.
Cerritos, CA 90701-1488

The applicant owns and operates a service station at 9560 NW Glencoe Rd., North Plains OR, facility no. 3935.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are double wall fiberglass piping, spill containment basins, turbine leak detectors, sumps, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 82,803
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on April 3, 1993 and placed into operation on April 3, 1993. The application for certification was submitted to the Department on May 7, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three fiberglass tanks and steel piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, sumps and automatic shutoff valves.
- 3) For leak detection - Turbine leak detectors.
- 4) For VOC reduction - Stage II vapor recovery piping, nozzles and hoses on eight dispensers.

Contamination discovered at the site was reported to DEQ. The applicant stated that cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$ 82,803) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Double wall fiberglass piping	\$ 3,269	76	% (1)	\$ 2,484
Spill & Overfill Prevention:				
Spill containment basins	2,621	100		2,621
Sumps	2,805	100		2,805
Automatic shutoff valves	1,496	100		1,496
Leak Detection:				
Turbine leak detectors	2,038	100		2,038
Stage II vapor recovery (includes 16 nozzles & hoses on 8 dispensers)	2,400	100		2,400
Labor & material	68,174	100		68,174
Total	\$ 82,803	99	%	\$ 82,018

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$3,269 and the bare steel system is \$787, the resulting portion of the eligible tank and piping cost allocable to pollution control is 76%.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 99%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$82,803 with 99% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4076.

Barbara Anderson:ew
(503) 229-5870
August 2, 1993

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings or increase in costs from the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the EPA to reduce air pollution.
- c. The facility complies with Department standards and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$1,999.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4112.

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Western Stations Company
P. O. Box 5969
Portland, OR 97228-5969

The applicant owns and operates a retail service station at 22250 Willamette Dr., West linn, OR, facility no. 7531.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are three fiberglass/steel composite tanks, doublewall fiberglass piping, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I and II vapor recovery equipment.

Claimed facility cost \$128,415*
(Accountant's certification was provided)

The Department concludes that the eligible facility cost for the project is \$142,189. This represents a difference of \$13,774 from the applicant's claimed cost of \$128,415 due to a determination that the total cost of tanks and piping, rather than total cost minus bare steel tank and piping estimates, should be used to calculate the total cost of the project.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on April 23, 1993 and placed into operation on April 23, 1993. The application for certification was submitted to the Department on July 9, 1993 and was determined complete and filed on July 30, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air.. This is accomplished by preventing

releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Fiberglass/steel composite tanks and doublewall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm and automatic shutoff valves.
- 3) For leak detection - Tank monitor and monitoring wells.
- 4) For VOC reduction - Stage I vapor recovery and Stage II piping, hoses and nozzles for four dispensers.

The applicant also installed an oil/water separator.

Contamination found at the site was reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. This facility is also in compliance with Stage II vapor recovery rules.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered the method chosen to be most cost effective. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

The applicant estimated that 90% of the total facility cost of \$142,189 is allocable to pollution control. The applicant arrived at this percent by subtracting the cost of bare steel tank and piping estimates.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>	<u>Amount Allocable</u>
Corrosion Protection:			
Fiberglass/steel composite tanks and fiberglass piping	\$ 37,198	63 % (1)	\$ 23,435
Spill & Overfill Prevention:			
Spill containment basins	757	100	757
Overfill alarm	68	100	68
Automatic shutoff valves	1,980	100	1,980
Sumps	4,958	100	4,958
Leak Detection:			
Tank monitor	6,096	90 (2)	5,486
Monitoring Wells	377	100	377
Oil/water separator	12,870	100	12,870
Stage I vapor recovery	402	100	402
Stage II vapor recovery (including 8 hoses and nozzles at 4 dispensers.	6,043	100	6,043
Labor and material	<u>71,440</u>	<u>100</u>	<u>71,440</u>
Total	\$ 142,189	90 %	\$ 127,816

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$37,198 and the bare steel system is \$13,774, the resulting portion of the eligible tank and piping cost allocable to pollution control is 63%.
- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water or air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 90%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$142,189 with 90% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4113.

Barbara Anderson:ew

(503) 229-5870

July 27, 1993

State of Oregon
Department of Environmental Quality
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

McCracken Motor Freight, Inc.
3147 N.W. Front Avenue
Portland, Oregon 97210

The applicant leases and operates a trucking company in Portland, Oregon. Diesel fuel is stored on site for use in the company's trucks.

Application was made for tax credit for a water pollution control facility.

2. Description of Facility

The pollution control facility consists of a secondary containment structure for two above ground fuel storage tanks, an oil/water separator to treat the drainage from the containment and fueling area, and associated piping and valves.

Claimed Facility Cost: \$25,500
(Accountant's Certification was provided).

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met statutory deadline in that construction, of the facility was substantially completed in January, 1992, and the application for certification was found to be complete on July 15, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the facility is to control a substantial quantity of water pollution. This control is accomplished by the use of treatment works for industrial waste as defined in ORS 468B.005.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

2) The estimated annual percent return on the investment in the facility.

The average annual cash flow for the claimed facility is zero; hence, there is no return on investment from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The only alternative to above-ground tanks with containment is underground tanks. The cost of installing underground tanks would be similar to the cost of the claimed facility; however, leaks from underground tanks are difficult to detect and costly to remediate. The applicant believed it would be better to install above-ground tanks with secondary containment and an oil/water separator. Department staff agree with this decision.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings or increases in costs as a result of the facility modification.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to control of pollution.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to control a substantial quantity of water pollution and accomplishes this purpose by the use of treatment works for industrial waste as defined in ORS 468B.005.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$25,500 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-4114.

(George F. Davis):(GFD)
(T-4114)
(503) (229-6385, ext. 242)
(July 16, 1993)

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Riverside Jeep/Eagle
16803 SE Mcloughlin
Milwaukie, Oregon 97267

The applicant owns and operates an automobile sales and service establishment in Milwaukie, Oregon. Applicant does its own vehicle maintenance.

Application was made for tax credit for an air pollution control facility which is owned by the applicant.

2. Description of Facility

Facility is a machine which removes and cleans auto air conditioner coolant. The machine is self contained and includes pumps, tubing, valves and filters which rid the spent coolant of oil, excess air, water, acids and contaminant particles.

The applicant has identified the useful life of the equipment to be seven years.

Claimed Facility Cost: \$3,696.00
(Costs have been documented)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

Installation of the facility was substantially completed on August 25, 1992. The facility was placed into operation on September 1, 1992. The application for final certification was submitted to the Department on July 14, 1993. The application was found to be complete on August 2, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the sole purpose of the facility is to reduce air pollution. This reduction is accomplished by capturing and/or recycling air contaminants, as defined in ORS 468.275.

Eligible equipment must be certified by Underwriters Laboratory (UL) as meeting the requirements and specifications of UL1963 and the Society of Automotive Engineers (SAE) standards, J2210, or other requirements and specifications determined by the Department as being equivalent. The facility meets these requirements.

b. Eligible Cost Findings

In determining the percent of the facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The recovery and recycling machine serves two purposes. It prevents the release of spent auto A/C coolant to the environment, thereby meeting Department regulations requiring capture of this air contaminant. Second, it provides a means to recover and clean waste coolant for reuse as an auto A/C coolant.

- 2) The estimated annual percent return on the investment in the facility.

The percent return on investment from facility use was calculated using coolant cost and retrieval rate data from the applicant and generic cost of facility operations estimated by the Department.

Specifically, the applicant estimated the cost to applicant of virgin coolant at \$18.00/pound. The applicant estimated an annual coolant recovery rate of 75 pounds.

In estimating the operating costs for use of the recovery and recycling machine, the Department developed a standardized methodology which considers the following factors:

- o Electricity consumption of machine
- o Additional labor to operate machine
- o Machine maintenance costs
- o Depreciation of machine

Based on these considerations, the applicant estimated the return on investment to be less than zero, in that machine operating costs exceeded income from the use of the machine.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant has identified no alternatives.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are savings from the facility to recover and reuse coolant. The applicant may use the recycled coolant in customer vehicles. In this case the savings are tied to the displaced cost of virgin coolant. Alternately, the applicant could sell the coolant to a second shop where the coolant is used. In this case the savings to the applicant are tied to the sales price of recycled coolant.

However, for this applicant increases in business operations and maintenance costs exceeded facility savings. These cost estimates are discussed in 2) above.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

A distinct portion of this automobile air conditioning coolant recovery and recycling equipment makes an insignificant contribution to the principal purpose of the claimed facility. This coolant recovery equipment has the capability to return (recharge) coolant to automobile air conditioning systems. Recharge capabilities in coolant recovery and recycling equipment is not required by state or federal law. The additional expense incurred in the purchase of equipment with recharge capabilities is not allocable to pollution control. The Department estimates the additional expense incurred is \$700.00.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 81%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to reduce air pollution.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 81%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$3696 with 81% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4116.

BKF:a
(503) 229-5365
LTR\AH72115G
August 2, 1993

STATE OF OREGON
 DEPARTMENT OF ENVIRONMENTAL QUALITY
POLLUTION CONTROL FACILITY CERTIFICATE

Certificate No: 3048
 Date of Issue: 4/23/93
 Date of Reissue: 9/10/93
 Application No: T-2061

ISSUED TO:
 James River Paper Company, Inc.
 Wauna Mill
 Route 2, P. O. Box 2185
 Clatskanie, Oregon 97016

LOCATION OF POLLUTION CONTROL FACILITY:
 Highway 30
 Wauna, Oregon

ATTENTION: S.W. Gallagher

AS: LESSEE OWNER INDIV PARTNER CORP NON-PROFIT CO-OP

DESCRIPTION OF POLLUTION CONTROL FACILITY:
 Facility consists of compacted clay liner, leachate collection system and groundwater monitoring wells.

TYPE OF POLLUTION CONTROL FACILITY:
 AIR NOISE WATER SOLID WASTE HAZARDOUS WASTE USED OIL

DATE FACILITY COMPLETED: November 1, 1988 PLACED INTO OPERATION: November 1, 1988

ACTUAL COST OF POLLUTION CONTROL FACILITY: \$930,535.00

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO POLLUTION CONTROL: 100%

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the facility described herein was erected, constructed or installed in accordance with the requirements of subsection (1) of ORS 468.165, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or used oil, and that it is necessary to satisfy the intents and purposes of ORS Chapters 454, 459, 467 and 468 and rules adopted thereunder.

Therefore, this Pollution Control Facility Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing the type of pollution as indicated above.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.
3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

NOTE: The facility described herein is not eligible to receive tax credit certification as an Energy Conservation Facility under the provisions of Chapter 512, Oregon Law 1979, if the person issued the Certificate elects to take the tax credit relief under ORS 316.097 or 317.072.

Signed: _____ (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the 23rd day of April, 1993.

CERTIFICATE TRANSFER

From: ^C

To: ^C

Signed: _____ (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the ^C__ day of ^C_____, 1992.

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Atlantic Richfield Company
17315 Studebaker Rd.
Cerritos, CA 90701-1488

The applicant owns and operates a service station at 10966 SE McLoughlin, Milwaukie OR, facility no. 3953.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are double wall fiberglass piping, spill containment basins, line leak detectors, overfill alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 87,913
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on June 8, 1992 and placed into operation on June 8, 1992. The application for certification was submitted to the Department on May 7, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three fiberglass tanks and steel piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Line leak detectors.
- 4) For VOC reduction - Stage II vapor recovery piping, nozzles and hoses on eight dispensers.

Contamination discovered at the site was reported to DEQ. The applicant stated that cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$ 87,913) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable	Amount Allocable
Corrosion Protection:			
Double wall fiberglass piping	\$ 3,746	76 % (1)	\$ 2,847
Spill & Overfill Prevention:			
Spill containment basins	1,519	100	1,519
Overfill alarm	498	100	498
Sumps	1,810	100	1,810
Automatic shutoff valves	97	100	97
Leak Detection:			
Line leak detectors	2,599	100	2,599
Stage II vapor recovery (includes 16 nozzles & hoses on 8 dispensers)	2,550	100	2,550
Labor & material	75,094	100	75,094
Total	\$ 87,913	99 %	\$ 87,014

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$3,746 and the bare steel system is \$902, the resulting portion of the eligible tank and piping cost allocable to pollution control is 76%.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 99%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$87,913 with 99% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4077.

Barbara Anderson:ew
(503) 229-5870
June 25, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Atlantic Richfield Company
17315 Studebaker Rd.
Cerritos, CA 90701-1488

The applicant owns and operates a service station at 1110 SE Powell Blvd, Portland OR, facility no. 3915.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are double wall fiberglass piping, spill containment basins, tank monitor, overfill alarm, sumps, automatic shutoff valves and Stage II vapor recovery equipment.

Claimed facility cost \$ 124,575
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on April 29, 1992 and placed into operation on April 29, 1992. The application for certification was submitted to the Department on May 7, 1993 and was determined complete and filed on June 14, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three fiberglass tanks, steel piping with no corrosion protection, and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Double wall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm, sumps and automatic shutoff valves.
- 3) For leak detection - Tank monitor.
- 4) For VOC reduction - Stage II vapor recovery piping, nozzles and hoses on eight dispensers.

Contamination discovered at the site was reported to DEQ. The applicant stated that cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. The facility is also in compliance with Stage II vapor recovery rules.

The Department concludes that the costs claimed by the applicant (\$124,575) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>		<u>Amount Allocable</u>
Corrosion Protection:				
Double wall fiberglass piping	\$ 4,086	76	% (1)	\$ 3,105
Spill & Overfill Prevention:				
Spill containment basins	1,519	100		1,519
Overfill alarm	1,496	100		1,496
Sumps	4,038	100		4,038
Automatic shutoff valves	97	100		97
Leak Detection:				
Tank monitor	3,023	90	(2)	2,721
Stage II vapor recovery (includes 16 nozzles & hoses on 8 dispensers)				
	4,500	100		4,500
Labor & material	<u>105,816</u>	<u>100</u>		<u>105,816</u>
Total	\$ 124,575	99	%	\$ 123,292

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$4,086 and the bare steel system is \$984, the resulting portion of the eligible tank and piping cost allocable to pollution control is 76%.

- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 99%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$124,575 with 99% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4079.

Barbara Anderson:ew
(503) 229-5870
August 2, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Rosboro Lumber Company
P. O. Box 20
Springfield, OR 97477

The applicant owns and operates a truck shop for company vehicles at 170 S. 21st, Springfield, OR, facility no. 2652.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are three doublewall fiberglass tanks and doublewall fiberglass piping, spill containment basins, tank monitor with overflow alarm, automatic shutoff valves and Stage I vapor recovery equipment.

Claimed facility cost \$ 92,290
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on January 4, 1993 and placed into operation on January 4, 1993. The application for certification was submitted to the Department on May 27, 1993 and was determined complete and filed on July 30, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air.. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of five steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Doublewall fiberglass tanks and doublewall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm and automatic shutoff valves.
- 3) For leak detection - Tank monitor system.
- 4) For VOC reduction - Stage I vapor recovery equipment.

Contamination found at the site was reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

The Department concludes that the costs claimed by the applicant (\$92,290) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>		<u>Amount Allocable</u>
Corrosion Protection:				
Doublewall fiberglass tanks and piping	\$ 29,143	51	% (1)	\$ 14,863
Spill & Overflow Prevention:				
Spill containment basins	721	100		721
Automatic shutoff valves (includes Stage I vapor recovery)	1,180	100		1,180
Leak Detection:				
Tank monitor (with overflow alarm)	9,636	90	(2)	8,672
Labor & material	51,610	100		51,610
Total	\$ 92,290	83	%	\$ 77,046

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$29,143 and the bare steel system is \$14,333, the resulting portion of the eligible tank and piping cost allocable to pollution control is 51%.

- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water or air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 83%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$92,290 with 83% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4093.

Barbara Anderson:ew
(503) 229-5870
August 2, 1993

State of Oregon
Department of Environmental Quality
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Grunder Equipment Repair
405 N. Main
Tillamook, Oregon 97141

The applicant owns a truck and farm equipment maintenance and repair facility in Tillamook, Oregon.

Application was made for tax credit for a water pollution control facility. The water pollution control facility was installed by the applicant, and is used in the business on site.

2. Description of Facility

Department staff inspected the claimed facility on June 17, 1993. The claimed facility consists of a truck washing/degreasing pad with a zero-discharge wash water recycling system. Wash water is collected in a sump and pumped to a water treatment system. The wash water is treated to remove oil, grease and other contaminants. The treated wash water is then reused, and recovered oils are collected for recycling. There is no discharge of wastewater from this facility.

The washing/degreasing equipment was not claimed as part of the claimed facility.

Claimed Facility Cost: \$33,290
(Accountant's Certification was provided).

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met statutory deadline in that construction of the facility was substantially completed in December, 1991, and the application for certification was found to be complete on June 17, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by the elimination of an industrial wastewater discharge by recycling and reusing the wastewater.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

The percent allocable determined by using this factor would be 100%.

- 2) The estimated annual percent return on the investment in the facility.

The claimed facility produces no income, therefore the annual percent return on the investment in the facility is 0%.

The percent allocable determined by using this factor would be 100%.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

Discharge to the sanitary sewer system was considered. Wash water would still have to be treated before discharge, at a cost of approximately \$26,000. Installation of the recycle system eliminates this discharge to the sewer system, which ultimately discharges to public waters.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings or increases in costs as a result of the claimed facility.

The percent allocable determined by using this factor would be 100%.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to prevent a substantial quantity of water pollution. This prevention is accomplished by the elimination of an industrial wastewater discharge by recycling and reusing the wastewater.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$33,290 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-4095.

(George F. Davis):(GFD)
(TC-4095)
(503) (229-6385 x 242)
(June 17, 1993)

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Robert W. Hays/Michael J. Moran
P. O. Box 1220
Medford, OR 97501

The applicant owns and operates a retail service station at 1123 N. W. Pacific Hwy, Myrtle Creek, OR, facility no. 3578.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage II vapor recovery piping.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are four doublewall fiberglass tanks and doublewall fiberglass piping, spill containment basins, tank monitor, line and turbine leak detectors, overflow alarm, automatic shutoff valves, oil/water separator and Stage II vapor recovery piping.

Claimed facility cost \$ 98,037
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on November 10, 1992 and placed into operation on November 11, 1992. The application for certification was submitted to the Department on June 11, 1993 and was determined complete and filed on July 30, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air.. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of six steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Doublewall fiberglass tanks and doublewall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm and automatic shutoff valves.
- 3) For leak detection - Tank monitor, line and turbine leak detectors.
- 4) For VOC reduction - Stage II vapor recovery piping.

The applicant also installed an oil/water separator.

Contamination found at the site was reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

The Department concludes that the costs claimed by the applicant (\$92,290) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>		<u>Amount Allocable</u>
Corrosion Protection:				
Doublewall fiberglass tanks and piping	\$ 32,738	52	% (1)	\$ 17,024
Spill & Overfill Prevention:				
Spill containment basins	1,151	100		1,151
Overfill alarm	68	100		68
Automatic shutoff valves	1,055	100		1,055
Leak Detection:				
Tank monitor	9,668	90	(2)	8,701
Line and turbine leak detectors	2,061	100		2,061
Stage II vapor recovery piping	242	100		242
Oil/water separator	350	100		350
Labor and material	50,704	100		50,704
Total	\$ 98,037	83	%	\$ 81,356

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$32,738 and the bare steel system

is \$15,659, the resulting portion of the eligible tank and piping cost allocable to pollution control is 52%.

- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water or air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 83%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$98,037 with 83% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4097.

Barbara Anderson:ew
(503) 229-5870
August 2, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Bi-Mor Stations, Inc.
P. O. Box 1220
Medford, OR 97501

The applicant owns and operates a retail service station and convenience store at 4999 Crater Lake Hwy, Medford, OR, facility no. 3408.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and II vapor recovery piping.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are four fiberglass tanks and piping, spill containment basins, tank monitor, line and turbine leak detectors, overfill alarm, monitoring wells, oil/water separator, automatic shutoff valves, Stage I vapor recovery and Stage II piping.

Claimed facility cost \$ 94,209
(Accountant's certification was provided)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on December 6, 1991 and placed into operation on December 6, 1991. The application for certification was submitted to the Department on June 11, 1993 and was determined complete and filed on July 30, 1993, within two years of the completion date of the project.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air.. This is accomplished by preventing releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Fiberglass tanks and piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm and automatic shutoff valves.
- 3) For leak detection - Tank monitor, line and turbine leak detectors and monitoring wells.
- 4) For VOC reduction - Stage I vapor recovery and Stage II piping.

The applicant also installed an oil/water separator.

Contamination found at the site was reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current.

The Department concludes that the costs claimed by the applicant (\$94,209) are eligible pursuant to the definition of a pollution control facility in ORS 468.155.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant indicated that no alternative methods were considered. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	Eligible Facility Cost	Percent Allocable		Amount Allocable
Corrosion Protection:				
Fiberglass tanks and piping	\$ 26,331	36	% (1)	\$ 9,479
Spill & Overfill Prevention:				
Spill containment basins	2,675	100		2,675
Overfill alarm	195	100		195
Automatic shutoff valves	2,543	100		2,543
Leak Detection:				
Tank monitor	10,020	90	(2)	9,018
Line and turbine leak detectors	1,773	100		1,773
Monitoring Wells	7,404	100		7,404
Oil/water separator	5,938	100		5,938
Labor and material (includes Stage I vapor recovery and Stage II piping	37,330	100		37,330
Total	\$ 94,209	81	%	\$ 76,355

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as

a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$26,331 and the bare steel system is \$16,944, the resulting portion of the eligible tank and piping cost allocable to pollution control is 36%.

- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water or air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 81%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$94,209 with 81% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4098.

Barbara Anderson:ew
(503) 229-5870
July 23, 1993

State of Oregon
Department of Agriculture

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Norman and Itha Reiling
10773 Feller Road
Hubbard, OR 97032

The applicant owns and operates a grass seed farm operation in Marion County, Oregon.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a 27' x 120' x 120' steel frame, metal clad, grass seed straw storage building, located at 10773 Feller Road, Hubbard, Oregon. The land and buildings are owned by the applicant.

Claimed facility cost: \$113,623
(Accountant's Certification was provided.)

3. Description of farm operation plan to reduce open field burning.

The applicant has 596 acres of perennial grass seed under cultivation. They have not open field burned since the 1989 season. The alternative selected includes giving away the bulk straw to a custom baler for removing the straw from the fields in baled form.

The custom baler has indicated to the applicant that they would no longer be interested in the straw unless dry storage was provided for the baled straw. The applicant built the storage facility after determining that "[w]ith the limited available methods of straw disposal without providing adequate dry storage...farming practices would have to reincorporate open field burning as the only method of straw disposal."

4. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16. The facility has met all statutory deadlines in that:

Construction of the facility was substantially completed on May 25, 1993. The application for final certification was found to be complete on July 7, 1993.

5. Evaluation of Application

a. The facility is eligible under ORS 468.150 because the facility is an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution. This reduction is accomplished by reduction of air contaminants, defined in ORS 468A.005; by reducing the maximum acreage to be open burned in the Willamette Valley as required in OAR 340-26-013; and, the facility's qualification as a "pollution control facility", defined in OAR 340-16-025(2)(f))A): "Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning."

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1. The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility promotes the conversion of a waste product (straw) into a salable commodity by providing protection from inclement weather.

2. The estimated annual percent return on the investment in the facility.

There is no annual percent return on the investment as applicant claims no gross annual income.

3. The alternative methods, equipment and costs for achieving the same pollution control objective.

The method chosen is an accepted method for reduction of air pollution. The method is one of the least costly, most effective methods of reducing air pollution.

4. Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is an increase in operating costs of \$3,490 to annually maintain and operate the facility. These costs were considered in the return on investment calculation.

5. Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air pollution.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of air pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

6. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible under ORS 468.150 as an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution as defined in ORS 468A.005.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility that is properly allocable to pollution control is 100%.

7. The Department of Agriculture's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$113,623, with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application Number TC-4103.

Jim Britton, Manager
Smoke Management Program
Natural Resources Division
Oregon Department of Agriculture
(503) 378-6792

jb:bmTC4103
July 9, 1993

State of Oregon
Department of Agriculture

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Hockett Farms
7776 St. Paul Highway NE
St. Paul, OR 97137

The applicant owns and operates a grass seed farm operation in Marion County, Oregon.

Application was made for tax credit for an air pollution control facility.

2. Description of Claimed Facility

The facility described in this application is a 22' x 100' x 130' steel frame, metal clad, grass seed straw storage building, located at 16645 Arbor Grove Road, Woodburn, Oregon. The land and buildings are owned by the applicant.

Claimed facility cost: \$70,325
(Accountant's Certification was provided.)

3. Description of farm operation plan to reduce open field burning.

The applicant has 750 acres of perennial grass seed under cultivation. Hockett Farms, Inc. has not open field burned any acreage since the 1989 season. The alternative selected by the applicant includes baling off all the fields, storing approximately half the baled straw in an existing storage building and half outside, then propane flaming the remaining stubble.

The applicant states that the 900-1,000 tons stored outside gets wet most years and has to be burned. The new storage building will allow the straw to be used or marketed throughout the fall, winter and spring months.

4. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16. The facility has met all statutory deadlines in that:

Construction of the facility was substantially completed on March 1, 1993. The application for final certification was found to be

complete on July 7, 1993. The application was submitted within two years of substantial completion of the facility.

5. Evaluation of Application

a. The facility is eligible under ORS 468.150 because the facility is an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution. This reduction is accomplished by reduction of air contaminants, defined in ORS 468A.005; by reducing the maximum acreage to be open burned in the Willamette Valley as required in OAR 340-26-013; and, the facility's qualification as a "pollution control facility", defined in OAR 340-16-025(2)(f)A): "Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning."

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1. The extent to which the facility is used to recover and convert waste products into a salable commodity.

The facility promotes the conversion of a waste product (straw) into a salable commodity by providing protection from inclement weather.

2. The estimated annual percent return on the investment in the facility.

The actual cost of claimed facility (\$70,325) divided by the average annual cash flow (\$5,400) equals a return on investment factor of 13.023. Using Table 1 of OAR 340-16-030 for a life of 15 years, the annual percent return on investment is 1.75%. Using the annual percent return of 1.75% and the reference annual percent return of 5.5%, 68% is allocable to pollution control.

3. The alternative methods, equipment and costs for achieving the same pollution control objective.

The method chosen is an accepted method for reduction of air pollution. The method is one of the least costly, most effective methods of reducing air pollution.

4. Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is an increase in operating costs of \$27,000 to annually maintain and operate the facility. These costs were considered in the return on investment calculation.

5. Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air pollution.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of air pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 68%.

6. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible under ORS 468.150 as an approved alternative method for field sanitation and straw utilization and disposal that reduces a substantial quantity of air pollution as defined in ORS 468A.005.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility that is properly allocable to pollution control is 68%.

7. The Department of Agriculture's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$70,325, with 68% allocated to pollution control, be issued for the facility claimed in Tax Credit Application Number TC-4105.

Jim Britton, Manager
Smoke Management Program
Natural Resources Division
Oregon Department of Agriculture
(503) 378-6792

jb:bmTC4105
July 9, 1993

State of Oregon
Department of Environmental Quality
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Temp Control Mech Corp
P.O. Box 11065
Portland, Oregon 97211

The applicant owns and operates an HVAC construction and servicing business in Portland, Oregon.

Application was made for tax credit for an air pollution control facility which is owned by the applicant.

2. Description of Facility

The facility is a machine which removes air conditioner or commercial refrigerant coolant. The machine is self contained and includes pumps, tubing, and valves.

The applicant has identified the useful life of the equipment to be three years.

Claimed Facility Cost: \$1,275.00
(Costs have been documented)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

Installation of the facility was substantially completed on June, 26, 1992. The facility was placed into operation on June 26, 1992. The application for final certification was submitted to the Department on July 9, 1993. The application was found to be complete on August 2, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Environmental Protection Agency to reduce air pollution. This reduction is accomplished by capturing air contaminants, as defined in ORS 468.275. The requirement is to comply with Section 608 of the 1990 Clean Air Act

Amendments. Section 608 prohibits the venting of a Class I or Class II ozone depleting substance in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration.

The EPA has specified standards equipment manufactured before January 1, 1993 would have to meet to be grandfathered under the EPA's planned regulations. The standards require the equipment be capable of achieving a vacuum able to sustain either four or twenty-five inches of Mercury. High pressure equipment will need to sustain a four inch vacuum. Low pressure equipment will need to sustain a twenty-five inch vacuum. The claimed facility meets these standards.

b. Eligible Cost Findings

In determining the percent of the facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The recovery machine serves two purposes. It prevents the release of spent refrigerant to the environment, thereby meeting EPA regulations requiring capture of this air contaminant. Second, it provides a means to recover coolant for reuse.

- 2) The estimated annual percent return on the investment in the facility.

The applicant stated they do not charge customers for returning coolant to customer equipment. Based on this there is no return on investment.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The capture of air conditioner and refrigerant coolant is an accepted method for preventing the emission of ozone depleting chemicals to the atmosphere.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings or increase in costs from the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the EPA to reduce air pollution.
- c. The facility complies with Department standards and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$1,275.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4108.

State of Oregon
Department of Environmental Quality
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Temp Control Mech Corp
P.O. Box 11065
Portland, Oregon 97211

The applicant owns and operates an HVAC construction and servicing business in Portland, Oregon.

Application was made for tax credit for an air pollution control facility which is owned by the applicant.

2. Description of Facility

The facility is a machine which removes air conditioner or commercial refrigerant coolant. The machine is self contained and includes pumps, tubing, and valves.

The applicant has identified the useful life of the equipment to be three years.

Claimed Facility Cost: \$2,149.00
(Costs have been documented)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

Installation of the facility was substantially completed on June, 24, 1992. The facility was placed into operation on June 24, 1992. The application for final certification was submitted to the Department on July 9, 1993. The application was found to be complete on August 2, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Environmental Protection Agency to reduce air pollution. This reduction is accomplished by capturing air contaminants, as defined in ORS 468.275. The requirement is to comply with Section 608 of the 1990 Clean Air Act

Amendments. Section 608 prohibits the venting of a Class I or Class II ozone depleting substance in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration.

The EPA has specified standards equipment manufactured before January 1, 1993 would have to meet to be grandfathered under the EPA's planned regulations. The standards require the equipment be capable of achieving a vacuum able to sustain either four or twenty-five inches of Mercury. High pressure equipment will need to sustain a four inch vacuum. Low pressure equipment will need to sustain a twenty-five inch vacuum. The claimed facility meets these standards.

b. Eligible Cost Findings

In determining the percent of the facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The recovery machine serves two purposes. It prevents the release of spent refrigerant to the environment, thereby meeting EPA regulations requiring capture of this air contaminant. Second, it provides a means to recover coolant for reuse.

- 2) The estimated annual percent return on the investment in the facility.

The applicant stated they do not charge customers for returning coolant to customer equipment. Based on this there is no return on investment.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The capture of air conditioner and refrigerant coolant is an accepted method for preventing the emission of ozone depleting chemicals to the atmosphere.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings or increase in costs from the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the EPA to reduce air pollution.
- c. The facility complies with Department standards and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$2,149.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4109.

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Temp Control Mech Corp
PO Box 11065
Portland, OR 97211

The applicant owns and operates a HVAC construction and servicing business in Portland, Oregon.

Application was made for tax credit for an air pollution control facility which is owned by the applicant.

2. Description of Facility

Facility is a machine which removes and cleans air conditioner or commercial refrigerant coolant. The machine is self contained and includes pumps, tubing, valves and filters which rid the spent coolant of oil, excess air, water, acids and contaminant particles.

The applicant has identified the useful life of the equipment to be three years.

Claimed Facility Cost: \$3,600.00
(Costs have been documented)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

Installation of the facility was substantially completed on March 19, 1992. The facility was placed into operation on March 19, 1992. The application for final certification was submitted to the Department on July 9, 1993. The application was found to be complete on August 2, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Environmental Protection Agency to reduce air pollution. This reduction is accomplished by capturing and/or recycling air

contaminants, as defined in ORS 468.275. The requirement is to comply with Section 608 of the 1990 Clean Air Act Amendments. Section 608 prohibits the venting of a Class I or Class II ozone depleting substance in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration.

The EPA has specified standards equipment manufactured before January 1, 1993 would have to meet to be grandfathered under the EPA's planned regulations. The standards require the equipment be capable of achieving a vacuum able to sustain either four or twenty-five inches of Mercury. High pressure equipment will need to sustain a four inch vacuum. Low pressure equipment will need to sustain a twenty-five inch vacuum. The claimed facility meets these standards.

b. Eligible Cost Findings

In determining the percent of the facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The recovery machine serves two purposes. It prevents the release of spent refrigerant to the environment, thereby meeting EPA regulations requiring capture of this air contaminant. Second, it provides a means to recover coolant for reuse.

- 2) The estimated annual percent return on the investment in the facility.

The applicant stated they do not charge customers for returning coolant to customer equipment. The applicant purchased this machine with the expectation of recycling waste coolant. Once the applicant placed the machine into operation they found the recycling function took too long to be practical for recycling on site. The applicant only returns uncontaminated customer coolant to the equipment it came from. Based on this there is no return on investment.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The capture of air conditioner and refrigerant coolant is an accepted method for preventing the emission of ozone depleting chemicals to the atmosphere.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings or increase in costs from the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

A distinct portion of this air conditioning and refrigerant coolant recovery and recycling equipment makes an insignificant contribution to the principal purpose of the claimed facility. This coolant recovery equipment has the capability to return (recharge) coolant to automobile air conditioning systems. Recharge capabilities in coolant recovery and recycling equipment is not required by state or federal law. The additional expense incurred in the purchase of equipment with recharge capabilities is not allocable to pollution control. The Department estimates the additional expense incurred is \$700.00.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 81%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the EPA to reduce air pollution.
- c. The facility complies with Department standards and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 81%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$3,600.00 with 81% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. 4110.

BKF:a (503) 229-5365
LTR\AH72115C
August 2, 1993

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Temp Control Mech Corp
P.O. Box 11065
Portland, Oregon 97211

The applicant owns and operates an HVAC construction and servicing business in Portland, Oregon.

Application was made for tax credit for an air pollution control facility which is owned by the applicant.

2. Description of Facility

The facility is a machine which removes air conditioner or commercial refrigerant coolant. The machine is self contained and includes pumps, tubing, and valves.

The applicant has identified the useful life of the equipment to be three years.

Claimed Facility Cost: \$1,999.00
(Costs have been documented)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

Installation of the facility was substantially completed on July, 22, 1992. The facility was placed into operation on July 22, 1992. The application for final certification was submitted to the Department on July 9, 1993. The application was found to be complete on August 2, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Environmental Protection Agency to reduce air pollution. This reduction is accomplished by capturing air contaminants, as defined in ORS 468.275. The requirement is to comply with Section 608 of the 1990 Clean Air Act

Amendments. Section 608 prohibits the venting of a Class I or Class II ozone depleting substance in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration.

The EPA has specified standards equipment manufactured before January 1, 1993 would have to meet to be grandfathered under the EPA's planned regulations. The standards require the equipment be capable of achieving a vacuum able to sustain either four or twenty-five inches of Mercury. High pressure equipment will need to sustain a four inch vacuum. Low pressure equipment will need to sustain a twenty-five inch vacuum. The claimed facility meets these standards.

b. Eligible Cost Findings

In determining the percent of the facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The recovery machine serves two purposes. It prevents the release of spent refrigerant to the environment, thereby meeting EPA regulations requiring capture of this air contaminant. Second, it provides a means to recover coolant for reuse.

- 2) The estimated annual percent return on the investment in the facility.

The applicant stated they do not charge customers for returning coolant to customer equipment. Based on this there is no return on investment.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The capture of air conditioner and refrigerant coolant is an accepted method for preventing the emission of ozone depleting chemicals to the atmosphere.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings or increase in costs from the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the EPA to reduce air pollution.
- c. The facility complies with Department standards and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$1,999.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4111.

State of Oregon
Department of Environmental Quality
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Temp Control Mech Corp
P.O. Box 11065
Portland, Oregon 97211

The applicant owns and operates an HVAC construction and servicing business in Portland, Oregon.

Application was made for tax credit for an air pollution control facility which is owned by the applicant.

2. Description of Facility

the facility is a machine which removes air conditioner or commercial refrigerant coolant. The machine is self contained and includes pumps, tubing, and valves.

The applicant has identified the useful life of the equipment to be three years.

Claimed Facility Cost: \$1,999.00
(Costs have been documented)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

Installation of the facility was substantially completed on July, 22, 1992. The facility was placed into operation on July 22, 1992. The application for final certification was submitted to the Department on July 9, 1993. The application was found to be complete on August 2, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Environmental Protection Agency to reduce air pollution. This reduction is accomplished by capturing air contaminants, as defined in ORS 468.275. The requirement is to comply with Section 608 of the 1990 Clean Air Act

Amendments. Section 608 prohibits the venting of a Class I or Class II ozone depleting substance in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration.

The EPA has specified standards equipment manufactured before January 1, 1993 would have to meet to be grandfathered under the EPA's planned regulations. The standards require the equipment be capable of achieving a vacuum able to sustain either four or twenty-five inches of Mercury. High pressure equipment will need to sustain a four inch vacuum. Low pressure equipment will need to sustain a twenty-five inch vacuum. The claimed facility meets these standards.

b. Eligible Cost Findings

In determining the percent of the facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The recovery machine serves two purposes. It prevents the release of spent refrigerant to the environment, thereby meeting EPA regulations requiring capture of this air contaminant. Second, it provides a means to recover coolant for reuse.

- 2) The estimated annual percent return on the investment in the facility.

The applicant stated they do not charge customers for returning coolant to customer equipment. Based on this there is no return on investment.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The capture of air conditioner and refrigerant coolant is an accepted method for preventing the emission of ozone depleting chemicals to the atmosphere.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings or increase in costs from the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the EPA to reduce air pollution.
- c. The facility complies with Department standards and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$1,999.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4112.

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Western Stations Company
P. O. Box 5969
Portland, OR 97228-5969

The applicant owns and operates a retail service station at 22250 Willamette Dr., West linn, OR, facility no. 7531.

Application was made for a tax credit for a water pollution control facility involving underground storage tanks. The application also included related air quality Stage I and II vapor recovery equipment.

2. Description of Claimed Facility

The claimed pollution control facilities described in this application are three fiberglass/steel composite tanks, doublewall fiberglass piping, spill containment basins, tank monitor, overflow alarm, monitoring wells, sumps, oil/water separator, automatic shutoff valves and Stage I and II vapor recovery equipment.

Claimed facility cost \$128,415*
(Accountant's certification was provided)

The Department concludes that the eligible facility cost for the project is \$142,189. This represents a difference of \$13,774 from the applicant's claimed cost of \$128,415 due to a determination that the total cost of tanks and piping, rather than total cost minus bare steel tank and piping estimates, should be used to calculate the total cost of the project.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility was substantially completed on April 23, 1993 and placed into operation on April 23, 1993. The application for certification was submitted to the Department on July 9, 1993 and was determined complete and filed on July 30, 1993, within two years of the completion date of the project.

4. Evaluation of Application

a. The facility is eligible because the principal purpose of the facility is to comply with underground storage tank requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water and air.. This is accomplished by preventing

releases into soil, water or air. The facility qualifies as a "pollution control facility", defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."

Prior to the installation of pollution control, the facility consisted of three steel tanks and piping with no corrosion protection and no spill and overflow prevention or leak detection equipment.

To respond to Air Quality regulations under OAR 340-22-400 - 403 and Underground Storage Tank requirements under OAR 340 - Division 150, the applicant installed:

- 1) For corrosion protection - Fiberglass/steel composite tanks and doublewall fiberglass piping.
- 2) For spill and overflow prevention - Spill containment basins, overflow alarm and automatic shutoff valves.
- 3) For leak detection - Tank monitor and monitoring wells.
- 4) For VOC reduction - Stage I vapor recovery and Stage II piping, hoses and nozzles for four dispensers.

The applicant also installed an oil/water separator.

Contamination found at the site was reported to DEQ. Cleanup is in progress.

Based on information currently available, the applicant is in compliance with all applicable DEQ regulations in that these tanks are permitted and fee payments are current. This facility is also in compliance with Stage II vapor recovery rules.

b. Eligible Cost Findings

In determining the percent of the eligible pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The equipment does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no annual percent return on investment as the applicant claims no gross annual income from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant considered the method chosen to be most cost effective. The methods chosen are acceptable for meeting the requirements of federal regulations.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The applicant claims no savings or increase in costs as a result of the installation.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to pollution control.

The applicant estimated that 90% of the total facility cost of \$142,189 is allocable to pollution control. The applicant arrived at this percent by subtracting the cost of bare steel tank and piping estimates.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control is determined by using these factors as displayed in the following table.

	<u>Eligible Facility Cost</u>	<u>Percent Allocable</u>	<u>Amount Allocable</u>
Corrosion Protection:			
Fiberglass/steel composite tanks and fiberglass piping	\$ 37,198	63 % (1)	\$ 23,435
Spill & Overfill Prevention:			
Spill containment basins	757	100	757
Overfill alarm	68	100	68
Automatic shutoff valves	1,980	100	1,980
Sumps	4,958	100	4,958
Leak Detection:			
Tank monitor	6,096	90 (2)	5,486
Monitoring Wells	377	100	377
Oil/water separator	12,870	100	12,870
Stage I vapor recovery	402	100	402
Stage II vapor recovery (including 8 hoses and nozzles at 4 dispensers.	6,043	100	6,043
Labor and material	71,440	100	71,440
Total	\$ 142,189	90 %	\$ 127,816

- (1) The Department has determined the percent allocable on the cost of a corrosion protected tank and piping system by using a formula based on the difference in cost between the protected tank and piping system and an equivalent bare steel system as a percent of the protected system. Applying this formula to the costs presented by the applicant, where the protected system cost is \$37,198 and the bare steel system is \$13,774, the resulting portion of the eligible tank and piping cost allocable to pollution control is 63%.
- (2) The applicant's cost for a tank monitor is reduced to 90% of cost based on a determination by the Department that this is the portion properly allocable to pollution control since the device can serve other purposes, for example, inventory control.

5. Summation

- a. The facility was constructed in accordance with all regulatory requirements.
- b. The facility is eligible for tax credit certification in that the principal purpose of the claimed facility is to comply with requirements imposed by the federal Environmental Protection Agency to prevent pollution of soil, water or air. This is accomplished by preventing releases in soil, water or air. The facility qualifies as a "pollution control facility" defined in OAR 340-16-025(2)(g): "Installation or construction of facilities which will be used to detect, deter or prevent spills or unauthorized releases."
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 90%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$142,189 with 90% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4113.

Barbara Anderson:ew
(503) 229-5870
July 27, 1993

State of Oregon
Department of Environmental Quality
TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

McCracken Motor Freight, Inc.
3147 N.W. Front Avenue
Portland, Oregon 97210

The applicant leases and operates a trucking company in Portland, Oregon. Diesel fuel is stored on site for use in the company's trucks.

Application was made for tax credit for a water pollution control facility.

2. Description of Facility

The pollution control facility consists of a secondary containment structure for two above ground fuel storage tanks, an oil/water separator to treat the drainage from the containment and fueling area, and associated piping and valves.

Claimed Facility Cost: \$25,500
(Accountant's Certification was provided).

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met statutory deadline in that construction, of the facility was substantially completed in January, 1992, and the application for certification was found to be complete on July 15, 1993, within 2 years of substantial completion of the facility.

4. Evaluation of Application

a. The facility is eligible because the sole purpose of the facility is to control a substantial quantity of water pollution. This control is accomplished by the use of treatment works for industrial waste as defined in ORS 468B.005.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

2) The estimated annual percent return on the investment in the facility.

The average annual cash flow for the claimed facility is zero; hence, there is no return on investment from the facility.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The only alternative to above-ground tanks with containment is underground tanks. The cost of installing underground tanks would be similar to the cost of the claimed facility; however, leaks from underground tanks are difficult to detect and costly to remediate. The applicant believed it would be better to install above-ground tanks with secondary containment and an oil/water separator. Department staff agree with this decision.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings or increases in costs as a result of the facility modification.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to control of pollution.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to control a substantial quantity of water pollution and accomplishes this purpose by the use of treatment works for industrial waste as defined in ORS 468B.005.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$25,500 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-4114.

(George F. Davis):(GFD)
(T-4114)
(503) (229-6385, ext. 242)
(July 16, 1993)

State of Oregon
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

1. Applicant

Riverside Jeep/Eagle
16803 SE Mcloughlin
Milwaukie, Oregon 97267

The applicant owns and operates an automobile sales and service establishment in Milwaukie, Oregon. Applicant does its own vehicle maintenance.

Application was made for tax credit for an air pollution control facility which is owned by the applicant.

2. Description of Facility

Facility is a machine which removes and cleans auto air conditioner coolant. The machine is self contained and includes pumps, tubing, valves and filters which rid the spent coolant of oil, excess air, water, acids and contaminant particles.

The applicant has identified the useful life of the equipment to be seven years.

Claimed Facility Cost: \$3,696.00
(Costs have been documented)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

Installation of the facility was substantially completed on August 25, 1992. The facility was placed into operation on September 1, 1992. The application for final certification was submitted to the Department on July 14, 1993. The application was found to be complete on August 2, 1993, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the sole purpose of the facility is to reduce air pollution. This reduction is accomplished by capturing and/or recycling air contaminants, as defined in ORS 468.275.

Eligible equipment must be certified by Underwriters Laboratory (UL) as meeting the requirements and specifications of UL1963 and the Society of Automotive Engineers (SAE) standards, J2210, or other requirements and specifications determined by the Department as being equivalent. The facility meets these requirements.

- b. Eligible Cost Findings

In determining the percent of the facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The recovery and recycling machine serves two purposes. It prevents the release of spent auto A/C coolant to the environment, thereby meeting Department regulations requiring capture of this air contaminant. Second, it provides a means to recover and clean waste coolant for reuse as an auto A/C coolant.

- 2) The estimated annual percent return on the investment in the facility.

The percent return on investment from facility use was calculated using coolant cost and retrieval rate data from the applicant and generic cost of facility operations estimated by the Department.

Specifically, the applicant estimated the cost to applicant of virgin coolant at \$18.00/pound. The applicant estimated an annual coolant recovery rate of 75 pounds.

In estimating the operating costs for use of the recovery and recycling machine, the Department developed a standardized methodology which considers the following factors:

- o Electricity consumption of machine
- o Additional labor to operate machine
- o Machine maintenance costs
- o Depreciation of machine

Based on these considerations, the applicant estimated the return on investment to be less than zero, in that machine operating costs exceeded income from the use of the machine.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The applicant has identified no alternatives.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are savings from the facility to recover and reuse coolant. The applicant may use the recycled coolant in customer vehicles. In this case the savings are tied to the displaced cost of virgin coolant. Alternately, the applicant could sell the coolant to a second shop where the coolant is used. In this case the savings to the applicant are tied to the sales price of recycled coolant.

However, for this applicant increases in business operations and maintenance costs exceeded facility savings. These cost estimates are discussed in 2) above.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

A distinct portion of this automobile air conditioning coolant recovery and recycling equipment makes an insignificant contribution to the principal purpose of the claimed facility. This coolant recovery equipment has the capability to return (recharge) coolant to automobile air conditioning systems. Recharge capabilities in coolant recovery and recycling equipment is not required by state or federal law. The additional expense incurred in the purchase of equipment with recharge capabilities is not allocable to pollution control. The Department estimates the additional expense incurred is \$700.00.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 81%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for tax credit certification in that the sole purpose of the facility is to reduce air pollution.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 81%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$3696 with 81% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. TC-4116.

BKF:a
(503) 229-5365
LTR\AH72115G
August 2, 1993

STATE OF OREGON
DEPARTMENT OF ENVIRONMENTAL QUALITY
POLLUTION CONTROL FACILITY CERTIFICATE

Certificate No: 3048
Date of Issue: 4/23/93
Date of Reissue: 9/10/93
Application No: T-2061

ISSUED TO:
James River Paper Company, Inc.
Wauna Mill
Route 2, P. O. Box 2185
Clatskanie, Oregon 97016

LOCATION OF POLLUTION CONTROL FACILITY:
Highway 30
Wauna, Oregon

ATTENTION: S.W. Gallagher

AS: () LESSEE (X) OWNER () INDIV () PARTNER () CORP () NON-PROFIT () CO-OP

DESCRIPTION OF POLLUTION CONTROL FACILITY:

Facility consists of compacted clay liner, leachate collection system and groundwater monitoring wells.

TYPE OF POLLUTION CONTROL FACILITY:

() AIR () NOISE (X) WATER () SOLID WASTE () HAZARDOUS WASTE () USED OIL

DATE FACILITY COMPLETED: November 1, 1988

PLACED INTO OPERATION: November 1, 1988

ACTUAL COST OF POLLUTION CONTROL FACILITY: \$930,535.00

PERCENT OF ACTUAL COST PROPERLY ALLOCABLE TO POLLUTION CONTROL: 100%

Based upon the information contained in the application referenced above, the Environmental Quality Commission certifies that the facility described herein was erected, constructed or installed in accordance with the requirements of subsection (1) of ORS 468.165, and is designed for, and is being operated or will operate to a substantial extent for the purpose of preventing, controlling or reducing air, water or noise pollution or solid waste, hazardous wastes or used oil, and that it is necessary to satisfy the intents and purposes of ORS Chapters 454, 459, 467 and 468 and rules adopted thereunder.

Therefore, this Pollution Control Facility Certificate is issued this date subject to compliance with the statutes of the State of Oregon, the regulations of the Department of Environmental Quality and the following special conditions:

1. The facility shall be continuously operated at maximum efficiency for the designed purpose of preventing, controlling, and reducing the type of pollution as indicated above.
2. The Department of Environmental Quality shall be immediately notified of any proposed change in use or method of operation of the facility and if, for any reason, the facility ceases to operate for its intended pollution control purpose.
3. Any reports or monitoring data requested by the Department of Environmental Quality shall be promptly provided.

NOTE: The facility described herein is not eligible to receive tax credit certification as an Energy Conservation Facility under the provisions of Chapter 512, Oregon Law 1979, if the person issued the Certificate elects to take the tax credit relief under ORS 316.097 or 317.072.

Signed: _____ (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the 23rd day of April, 1993.

CERTIFICATE TRANSFER

From: ^C

To: ^C

Signed: _____ (William W. Wessinger, Chairman)

Approved by the Environmental Quality Commission on the ^C day of ^C, 1992.

Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item C
September 10, 1993 Meeting

Title:

Proposed Rule Adoption and Amendments to Existing Rules - Federal Operating Permit Program Rules and Hazardous Air Pollutant Rules

Summary:

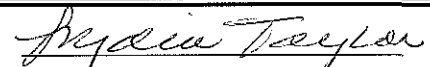
The proposed new rules/rule amendments are for implementation of a federal operating permit program required by the Federal Clean Air Act Amendments of 1990. The proposed rules would require that certain procedures be followed, especially with respect to air quality permitting and determining compliance with underlying applicable or substantive requirements. The proposed rules also contain provisions for controlling emissions of hazardous air pollutants.

Department Recommendation:

Adopt the Federal Operating Permit Program Rules and Hazardous Air Pollutant Rules, adopt amendments to existing rules, as presented in Attachments B, C, D, and E of the staff report.


Report Author


Division Administrator


Director

August 25, 1993

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon
Department of Environmental Quality

Memorandum[†]

Date: September 9, 1993

To: Environmental Quality Commission
From: Fred Hansen, Director
Subject: Agenda Item C, September 10, EQC Meeting

ADDENDUM to
Proposed Rule Adoption and Amendments to Existing Rules - Federal
Operating Permit Program Rules and Hazardous Air Pollutant Rules.

The Department recommends the attached changes be made to the Proposed Rule Adoption and Amendments to Existing Rules - Federal Operating Permit Program Rules and Hazardous Air Pollutant Rules. Minor change are recommended to:

- Attachment A. Oregon Federal Operating Permit Program Rule Discussion Document.
- Attachment B. The actual language of the Proposed Rule (amendments). Division 28 and (Operating Permit Program Rules).
- Attachment C. The actual language of the Proposed Rule (amendments). Division 32 (Hazardous Air Pollutant Control Rules).

sl:sl
adden
September 9, 1993

[†]Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

**ADDENDUM TO AUGUST 24, 1993 PROPOSED RULE ADOPTION
AND AMENDMENTS TO EXISTING RULES (DIVISION 28 AND 32)**

RULE NUMBER	CHANGE
340-28-110(5)	Delete " (5) "Aggregate insignificant emissions" means the annual actual emissions of any regulated air pollutant as defined in OAR 340-28-110, for any federal operating permit major source, including the usage of exempt mixtures, up to the lowest of the following applicable level: (a) One ton for each criteria pollutant; (b) 500 pounds for PM ₁₀ in a PM ₁₀ nonattainment area; (c) The lesser of the amount established in OAR 340-32-4500, Table 3, or 1,000 pounds for each Hazardous Air Pollutant; (d) An aggregate of 5,000 pounds for all Hazardous Air Pollutants."
340-28-110(5)	Add " (5) "Aggregate Insignificant Emissions" means the annual actual emissions of any regulated air pollutant from one or more designated activities at a source that are less than or equal to the lowest applicable level specified in this section. The total emissions from each designated activity and the aggregate emissions from all designated activities shall be less than or equal to the lowest applicable level specified in this section. Emissions from the usage of non-exempt insignificant mixtures may be included in the aggregate provided that the criteria of this section are met. The aggregate insignificant emissions levels are: (a) One ton for each criteria pollutant (except lead); (b) 120 pounds for lead; (c) 500 pounds for PM ₁₀ in a PM ₁₀ nonattainment area; (d) The lesser of the amount established in OAR 340-32-4500, Table 3, or 1,000 pounds for each Hazardous Air Pollutant; or (e) An aggregate of 5,000 pounds for all Hazardous Air Pollutants."
340-28-110(8)(c)	Replace " (New Source Review)" with ", New Source Review,"
340-28-110(8)(c)	Add " until or unless the Department revokes or modifies the term or condition by a permit modification" after the words "New Source Review,"

RULE NUMBER	CHANGE
340-28-110(8)(d)	Add "until or unless the Department revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification" after the words "for the source"
340-28-110(15)	Delete " (15) "Categorically insignificant activity" means one of the following Departmentally approved activities: <ul style="list-style-type: none"> - evaporative and tail pipe emissions from on-site motor vehicle operation; - natural gas and distillate oil space heating rated at less than 10 million British Thermal Units/hour; - office activities; - food service activities; - janitorial activities; - personal care activities; - groundskeeping activities; - on-site laundry activities; - instrument calibration; - pharmaceutical packaging; - fire suppression; and - blueprint making.

RULE NUMBER	CHANGE
340-28-110 (15)	<p>Add "</p> <p>(15) "Categorically Insignificant Activity" means any of the following pollutant emitting activities principally supporting the source:</p> <ul style="list-style-type: none"> (a) exempt insignificant mixture usage; (b) evaporative and tail pipe emissions from on-site motor vehicle operation; (c) natural gas, propane, and distillate oil space heating rated at less than 0.4 million British Thermal Units/hour; (d) office activities; (e) food service activities; (f) janitorial activities; (g) personal care activities; (h) groundskeeping activities; (i) on-site laundry activities; (j) on-site recreation facilities; (k) instrument calibration; (l) maintenance and repair shops; (m) automotive repair shops or storage garages; (n) air conditioning or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment; (o) refrigeration systems, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems; (p) bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated vacuum producing devices but excluding research and development facilities; (q) construction activities, excluding fugitive dust; (r) warehouse activities; (s) accidental fires; (t) electric air compressors; (u) air purification systems; (v) continuous emissions monitoring vent lines; (w) demineralized water tanks; (x) demineralizer vents; (y) cafeteria or office waste dumpsters; (z) electrical charging stations; (aa) fire brigade training; (bb) instrument air dryers and distribution; (cc) process raw water filtration systems; (dd) process sewer floor drains or open trenches; (ee) pharmaceutical packaging; (ff) fire suppression; and (gg) blueprint making."

RULE NUMBER	CHANGE
340-28-110(23)	Add "as used in OAR 340-28-2400 through 340-28-2550" before the words "means sampling"
340-28-110(48)	Delete " (48) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, insignificant mixture usage, or aggregately insignificant."
340-28-110(48)	Add " (48) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, or that meets the criteria of exempt insignificant mixture usage or aggregate insignificant emissions."
340-28-110(50)	Delete " (50) "Insignificant Mixture Usage" means use, consumption, or generation of chemical mixtures containing not more than 1% by weight of any chemical or compound regulated under Division 20 through 32 of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens."
340-28-110(39)	Re-number to 340-28-110(40)
340-28-110(40)	Re-number to 340-28-110(41)
340-28-110(41)	Re-number to 340-28-110(42)
340-28-110(42)	Re-number to 340-28-110(43)
340-28-110(43)	Re-number to 340-28-110(44)
340-28-110(44)	Re-number to 340-28-110(45)
340-28-110(45)	Re-number to 340-28-110(46)
340-28-110(46)	Re-number to 340-28-110(47)
340-28-110(47)	Re-number to 340-28-110(48)
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340-28-110(55)	Re-number to 340-28-110(56)
340-28-110(56)	Re-number to 340-28-110(57)

RULE NUMBER	CHANGE
340-28-110 (57)	Renumber to 340-28-110 (58)
340-28-110 (58)	Renumber to 340-28-110 (59)
340-28-110 (59)	Renumber to 340-28-110 (60)
340-28-110 (60)	Renumber to 340-28-110 (62)
340-28-110 (61)	Renumber to 340-28-110 (63)
340-28-110 (62)	Renumber to 340-28-110 (64)
340-28-110 (63)	Renumber to 340-28-110 (65)
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340-28-110 (65)	Renumber to 340-28-110 (67)
340-28-110 (66)	Renumber to 340-28-110 (68)
340-28-110 (67)	Renumber to 340-28-110 (69)
340-28-110 (68)	Renumber to 340-28-110 (70)
340-28-110 (69)	Renumber to 340-28-110 (71)
340-28-110 (70)	Renumber to 340-28-110 (72)
340-28-110 (71)	Renumber to 340-28-110 (73)
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340-28-110 (73)	Renumber to 340-28-110 (75)
340-28-110 (74)	Renumber to 340-28-110 (76)
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340-28-110 (79)	Renumber to 340-28-110 (81)
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340-28-110 (81)	Renumber to 340-28-110 (83)
340-28-110 (82)	Renumber to 340-28-110 (84)
340-28-110 (83)	Renumber to 340-28-110 (85)
340-28-110 (84)	Renumber to 340-28-110 (86)
340-28-110 (85)	Renumber to 340-28-110 (87)
340-28-110 (86)	Renumber to 340-28-110 (88)
340-28-110 (87)	Renumber to 340-28-110 (89)
340-28-110 (88)	Renumber to 340-28-110 (90)
340-28-110 (89)	Renumber to 340-28-110 (91)

RULE NUMBER	CHANGE
340-28-110(90)	Renumber to 340-28-110(92)
340-28-110(91)	Renumber to 340-28-110(93)
340-28-110(92)	Renumber to 340-28-110(94)
340-28-110(93)	Renumber to 340-28-110(95)
340-28-110(94)	Renumber to 340-28-110(96)
340-28-110(95)	Renumber to 340-28-110(97)
340-28-110(96)	Renumber to 340-28-110(98)
340-28-110(97)	Renumber to 340-28-110(99)
340-28-110(98)	Renumber to 340-28-110(100)
340-28-110(99)	Renumber to 340-28-110(101)
340-28-110(100)	Renumber to 340-28-110(102)
340-28-110(101)	Renumber to 340-28-110(103)
340-28-110(102)	Renumber to 340-28-110(104)
340-28-110(103)	Renumber to 340-28-110(105)
340-28-110(104)	Renumber to 340-28-110(106)
340-28-110(105)	Renumber to 340-28-110(107)
340-28-110(106)	Renumber to 340-28-110(108)
340-28-110(107)	Renumber to 340-28-110(109)
340-28-110(108)	Renumber to 340-28-110(110)
340-28-110(109)	Renumber to 340-28-110(111)
340-28-110(110)	Renumber to 340-28-110(112)
340-28-110(111)	Renumber to 340-28-110(113)
340-28-110(112)	Renumber to 340-28-110(114)
340-28-110(113)	Renumber to 340-28-110(115)
340-28-110(114)	Renumber to 340-28-110(116)
340-28-110(115)	Renumber to 340-28-110(117)
340-28-110(116)	Renumber to 340-28-110(118)
340-28-110(117)	Renumber to 340-28-110(119)
340-28-110(118)	Renumber to 340-28-110(120)
340-28-110(119)	Renumber to 340-28-110(121)
340-28-110(120)	Renumber to 340-28-110(122)

RULE NUMBER	CHANGE
340-28-110(39)	Add " (39) "Exempt Insignificant Mixture Usage" means use, consumption, or generation of insignificant mixtures which are not considered integral to the activities described by the same major industrial grouping or supporting the major industrial grouping, excluding fuels, raw materials, and end products."
340-28-110(50)	Add " (50) "Insignificant Mixture" means a chemical mixture containing not more than 1% by weight of any chemical or compound regulated under Division 20 through 32 of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens."
340-28-110(60)	Add " (60) "Non-exempt Insignificant Mixture Usage" means use, consumption, or generation of insignificant mixtures which are considered integral to the activities described by the same major industrial grouping or supporting the major industrial grouping, including fuels, raw materials, and end products."
340-28-1010(1)	Add "or 340-28-1060" after the words "by OAR 340-28-1050"
340-28-1060(2)	Add "non-exempt" after the words "emissions from" and delete ", " after the words "insignificant emissions"
340-28-2120(3)(c)(E)	Add "non-exempt" before the words "insignificant mixture usage"
340-28-2120(3)(c)(E)	Replace "aggregate insignificant emission levels" with "aggregate insignificant emissions"
340-28-2120(3)(i)	Replace " with identification of which permit conditions are no longer applicable and the reason." with ". Owners or operators may request that the Department make a determination that an existing permit term or condition is no longer applicable by supplying adequate information to support such a request. The existing permit term or condition shall remain in effect unless or until the Department determines that the term or condition is no longer applicable by permit modification."
340-28-2220(3)(a)(C)	Delete "not" before the words "Title I modifications"
340-28-2260(1)(d)	Delete "or 340-28-2270" after the words "through 340-28-2000"

shall be presumed to be an applicable rule

not required

RULE NUMBER	CHANGE
340-28-2260 (1) (d)	Delete "and" after the words "administrative amendment;"
340-28-2260 (1) (e)	ReNUMBER (e) to (f)
340-28-2260 (1) (e)	Add "(e) incorporation into the federal operating permit the requirements from preconstruction review permits authorized under OAR 340-28-2270 unless otherwise specified in OAR 340-28-2270 (3) (g); and"
340-32-500 (4) (a)	Replace "actual" with "residual"
340-32-500 (4) (b)	Replace "actual" with "residual"
340-32-500 (4) (c)	Add "prior to issuance of a permit to construct" after "The Department shall determine"
340-32-500 (4) (e)	Add " (e) When applying for a Federal Operating Permit the source shall notify the Department if its actual emissions exceed the estimate of residual emissions and the de minimis quantities. The Department shall then determine if residual emissions have been adequately addressed or whether additional emissions reductions measures are needed for the operating permit according to subsections 4(b), (c), and (d)."
340-32-4500 (3) (a)	Replace "actual" with "residual"
340-32-4500 (3) (b)	Replace "actual" with "residual"
340-32-4500 (3) (c)	Add "prior to issuance of a permit to construct" after "The Department shall determine"
340-32-4500 (3) (e)	Add " (e) When applying for a Federal Operating Permit the source shall notify the Department if its actual emissions exceed the estimate of residual emissions and the de minimis quantities. The Department shall then determine if residual emissions have been adequately addressed or whether additional emissions reductions measures are needed for the operating permit according to subsections 4(b), (c), and (d)."

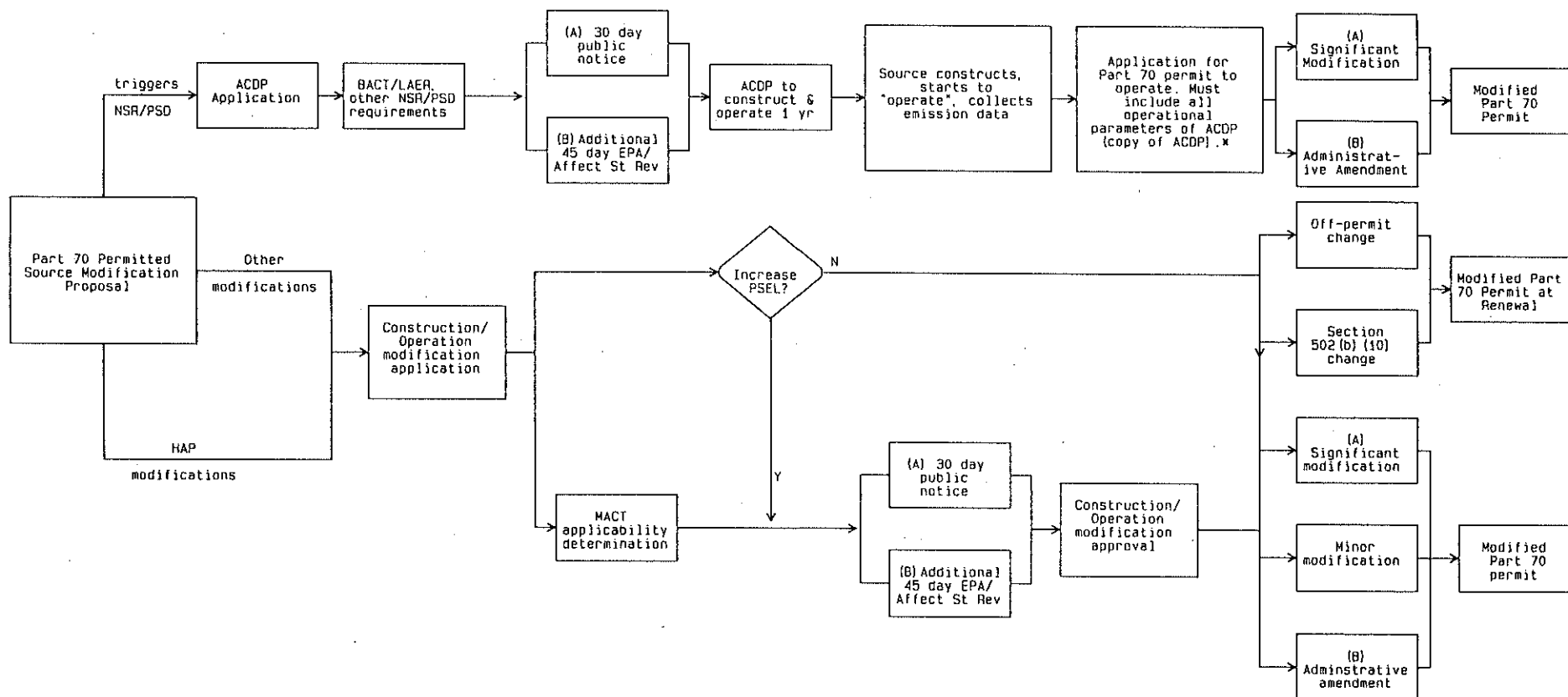
**ADDENDUM TO AUGUST 24, 1993 PROPOSED RULE ADOPTION
AND AMENDMENTS TO EXISTING RULES (DISCUSSION DOCUMENT)**

PAGE NUMBER	CHANGE
A-20	<p>Replace "The Department is requiring all owners or operators of sources that have existing Air Contaminant Discharge Permits to include these permits as part of a federal operating permit application [OAR 340-28-2120(3)(i)]. Owners or operators shall identify which permit conditions are no longer applicable and the reason. This requirement will ensure compliance with the ACDP, in addition to the information submitted in the federal operating permit application, because owners or operators are required to be in compliance with the permit application in order to obtain an application shield. The Department shall carry over all existing ACDP terms and conditions that still apply into the federal operating permit, realizing that some permit terms and conditions will need to be changed because of changes in rules, i.e., Highest and Best Practicable Treatment and Control." with</p> <p>"The Department is requiring all owners or operators of sources that have existing Air Contaminant Discharge Permits to include these permits as part of a federal operating permit application [OAR 340-28-2120(3)(i)]. This requirement will ensure compliance with the ACDP, in addition to the information submitted in the federal operating permit application, because owners or operators are required to be in compliance with the permit application in order to obtain an application shield. The Department shall carry over all existing ACDP terms and conditions that still apply into the federal operating permit, realizing that some permit terms and conditions will need to be changed because of changes in rules, i.e., Highest and Best Practicable Treatment and Control. Owners or operators may request that the Department make a determination that an existing permit term or condition is no longer applicable by supplying adequate information to support such a request. The existing permit term or condition shall remain in effect unless or until the Department determines that the term or condition is no longer applicable by permit modification."</p>

PAGE NUMBER	CHANGE
A-36 2. Insignificant activities, paragraph 2	Replace "less that 0.1 ton per year" with "less than 0.1 ton per year"
A-37 paragraph 1	<p>Replace "The Department has proposed implementation of an initial program, in which exemptions will be provided for categorically insignificant activities, (OAR 340-28-110(15)), insignificant use of chemical mixtures, (OAR 340-28-110(50)), and emissions below established aggregate threshold limits, (OAR 340-28-110(5))." with</p> <p>"The Department has proposed implementation of an initial program, in which exemptions will be provided for categorically insignificant activities, (OAR 340-28-110(15)), exempt and non-exempt insignificant chemical mixture usage, (OAR 340-28-110(39) and 340-28-110(61)), and emissions below established aggregate threshold limits, (OAR 340-28-110(5))."</p>
A-37 paragraph 2	<p>Add "The Department has made a distinction between exempt insignificant chemical mixture usage and non-exempt insignificant chemical mixture usage. Exempt insignificant mixture usage means use, consumption, or generation of insignificant mixtures which are not considered integral to the activities described by the same major industrial grouping or supporting the major industrial grouping, excluding fuels, raw materials, and end products. Non-exempt insignificant mixture usage includes mixtures that are not exempt. Emissions from exempt insignificant mixture usage are not required to be estimated while emissions from non-exempt insignificant mixture usage must be estimated.</p> <p>Material Safety Data Sheets (MSDS) provided by chemical manufacturers do not provide information on chemicals that are present in mixtures at less than 1% or carcinogens that are present in mixtures at less than 0.1%. Therefore, it would be very difficult for owners or operators to quantify chemicals that are present below these levels. Lubricants are examples of chemical mixtures used at a source that are not integral to the activities of the source. Fuel oil is an example of a mixture that is integral, and owners or operators would be responsible to ensure that emissions of other constituents present at less than the 1% and 0.1% levels are truly insignificant." before paragraph 2</p>

PAGE NUMBER	CHANGE
A-37 paragraph 2	Add "Non-exempt" before the words "Insignificant mixture usage and aggregate insignificant emissions"
A-58	Replace flowchart with new flowchart (attached)
Page A-101 paragraph 2	<p>Add "The de minimis values in Table 1 were drafted by the EPA while developing rules to implement section 112(g) of the Act. These values were intended to be used to determine when a change at a facility required a permit modification and not for the determination of residual risk. (A discussion of the derivation of these values is given below under OAR 340-32-4500.) The Department, by using these de minimis values for purposes of residual emissions control, does not intend that they become mandatory control standards. It considers these values only as a trigger level for evaluating whether additional control measures are warranted. In implementing this rule the Department may allow air quality or risk assessment methods, other than those used by the EPA to derive these de minimis values, for any source which exceeds the amounts in Table 1.</p> <p>The requirement to address residual emissions has been included in the construction permitting process. Subsection (e) was added recognizing that actual HAP emissions determined during the first year of operation could be greater than those estimated in the application for a permit to construct. If the actual residual emissions exceed the de minimis values and the original estimate of residual emissions, an analysis of additional emissions reduction measures must be done according to the same process outlined for the construction permit. Any limitations that result from this analysis will be included in the operating permit." after paragraph 2</p>

Incorporation of Preconstruction Approval Into a Federal Operating Permit



* If source start-up problems prevent timely data collection, application must include compliance schedule to obtain & submit info.

Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item C
September 10, 1993 Meeting

Title:

Proposed Rule Adoption and Amendments to Existing Rules - Federal Operating Permit Program Rules and Hazardous Air Pollutant Rules

Summary:

The proposed new rules/rule amendments are for implementation of a federal operating permit program required by the Federal Clean Air Act Amendments of 1990. The proposed rules would require that certain procedures be followed, especially with respect to air quality permitting and determining compliance with underlying applicable or substantive requirements. The proposed rules also contain provisions for controlling emissions of hazardous air pollutants.

Department Recommendation:

Adopt the Federal Operating Permit Program Rules and Hazardous Air Pollutant Rules, adopt amendments to existing rules, as presented in Attachments B, C, D, and E of the staff report.

Sara R. Kaumann

Report Author

John Greenwood

Division Administrator

Myra Taylor

Director

August 25, 1993

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon
Department of Environmental Quality

Memorandum[†]

Date: August 24, 1993

To: Environmental Quality Commission
From: Fred Hansen, Director
Subject: Agenda Item C, September 10, 1993 EQC Meeting

Proposed Rule Adoption and Amendments to Existing Rules - Federal Operating Permit Program Rules and Hazardous Air Pollutant Rules.

Background

On May 13, 1993 the Director authorized the Air Quality Division to proceed to a rulemaking hearing on proposed new rules/rule amendments for implementation of a federal operating permit program required by the Federal Clean Air Act Amendments of 1990. This proposal would require that certain procedures be followed, especially with respect to air quality permitting and determining compliance with underlying applicable or substantive requirements. The proposed rules also contain rules for controlling emissions of hazardous air pollutants.

Pursuant to the authorization, hearing notice was published in the Secretary of State's Bulletin on June 1, 1993. 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 action on May 21, 1993.

Public Hearings were held:

- June 25, 1993 at 2 p.m. in Room 3-A, DEQ Headquarters J, Portland

[†]Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

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- June 28, 1993 at 1 p.m. in Meeting Room 2, Springfield City Hall, Springfield
- June 29, 1993 at 2 p.m., in the Medford City Council Chambers, Medford
- June 30, 1993 at 2 p.m., in Room 154, Boyle Education Center, Bend, and
- July 1, 1993 at 2 p.m., in the Vert Little Theater, Pendleton.

Kevin Downing served as Presiding Officer at the Portland, Springfield, Medford, and Bend hearing, and Don Arkell served as Presiding Officer at the Springfield hearing. The Presiding Officer's Report (Attachment G) summarizes the oral testimony presented at the hearing.

Written comment was received through July 9, 1993. A list of written comments received is included as Attachment H. (A copy of the comments is available upon request.)

Department staff have evaluated the comments received. Department response is presented with the appropriate comments in Attachment G. Based upon that evaluation, and further advisory committee discussions, modifications to the initial rulemaking proposal are being recommended by the Department. These modifications are summarized below and detailed in Attachment I.

The following sections summarize the issue that this proposed rulemaking action is intended to address, the authority to address the issue, the process for development of the rulemaking proposal including alternatives considered, a summary of the rulemaking proposal presented for public hearing, a summary of the significant public comments and the changes proposed in response to those comments, a summary of how the rule will work and how it is proposed to be implemented, and a recommendation for Commission action.

Issue this Proposed Rulemaking Action is Intended to Address

This proposed rule package contains new rules and amendments to existing rules to fulfill Oregon's duty to comply with Title V of the Federal Clean Air Act Amendments (FCAA). Title V mandates that each state develop a comprehensive operating permit program for all major stationary sources of air emissions. Title V was added to the Clean Air Act on November 15, 1990. It requires that EPA, within 12 months of enactment, promulgate regulations setting forth provisions under which States will develop operating permit programs and submit them to EPA for approval. EPA promulgated these regulations as Part 70 of Chapter I of Title 40 of the Code of Federal Regulations on June, 29, 1992 [57 FR 32295].

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States must develop and implement the operating permit program. EPA must review each State's proposed program and oversee the State's efforts to implement any approved program, including reviewing proposed permits and vetoing improper permits. When a State fails to adopt and implement its own approvable program, EPA must apply sanctions against the State or the relevant jurisdiction and ultimately also develop and implement a Federal permit program.

While Title V generally does not impose substantive new requirements, it does require that certain procedural measures be followed, especially with respect to determining compliance with underlying applicable requirements. The proposed program will clarify, in a single document, which requirements apply to a source and, thus, should enhance compliance with the requirements of the Clean Air Act. Currently, a source's obligations under the Clean Air Act (ranging from emissions limits to monitoring, recordkeeping, and reporting requirements) are, in many cases, scattered among numerous provisions of the SIP or Federal regulations. In addition, regulations are often written to cover broad source categories, therefore, it may be unclear which, and how, general regulations apply to a source. As a result, the Department often has no easy way to establish whether a source is in compliance with regulations under the Clean Air Act.

The proposed federal operating permit program will enable the source, States, EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those requirements. Increased source accountability and better enforcement should result. The proposed program will also greatly strengthen the Department's and EPA's ability to implement the Clean Air Act and enhance air quality planning and control, in part, by providing the basis for better emission inventories.

Another benefit of the federal operating permit program is that it provides a ready vehicle for the States to administer significant parts of the substantially-revised federal air toxics program and the new acid rain program. This enhances the Department's ability to implement all programs under the Clean Air Act. Specifically, Title III of the Clean Air Act requires that States use the permit system to administer the air toxics program. In addition, States will be responsible for reviewing and issuing permits to implement the second phase of the acid rain program (with permitting activities beginning in 1996) and will play a significant role in ensuring compliance with the acid rain regulations promulgated under Title IV of the Clean Air Act.

The proposed rules will enable the Department to implement the federal operating permit program as required by the EPA in order to avoid mandatory federal sanctions and ultimate EPA control of the program. The proposed program will increase the number

of industrial sources required to control emissions and will result in significant reductions of hazardous air pollutant emission. Criteria pollutant emissions will be reduced indirectly through the increased emphasis on compliance determinations. To help improve program efficiency, a minor change is included in the process of preparing some changes to the State Implementation Plan for submittal to the EPA.

There are a number of key differences between Oregon's Air Contaminant Discharge Permit Program (ACDP) and the new federally-required Title V Permit Program. These key differences are outlined in the below table.

Table 1. Key Differences Between the Existing Permitting Program and the New Title V Permitting Program.

Key Program Elements	Existing ACDP Program ⁺⁺⁺	Proposed Title V Permit Program
Current Applicability	Over 1100 large and small emitters	About 300 large emitters
Fees	Source-category based permitting fees, including application fee, annual compliance fee, and user fees for special applications.	Increase per federal requirements. Senate Bill 86 (1993 Oregon Legislature) introduced at the DEQ's request would amend existing law to provide for emission fees, a yearly base fee for all sources, and user-based fees for certain activities initiated by the source.
Permit application	Applicant supplies information used to develop appropriate permit conditions.	Increased burden on source to supply all information and regulated permit conditions. Department to do completeness review within 60 days.
Public Notice and Comment	On new permits and emission increases only.	On all new permits, renewals, and significant modifications.
Compliance Demonstration	Burden shared by the DEQ and sources.	Burden on sources. Semi-annual reports and certification by corporate official. Criminal liability.

Key Program Elements	Existing ACDP Program ^{tttt}	Proposed Title V Permit Program
EPA (and Affected State) Involvement	Indirect.	The EPA reviews and may revise and veto. Affected states also provided opportunity to review and comment.
Hazardous Air Pollutants	DEQ interim policy covers new and modified sources only.	Regulations will cover new, modified and existing sources. Requires emissions controls for major sources. Accident prevention regulations.
Permit Shield (related to content of permit rather than permit enforcement)	Not provided.	Provided if EQC determines the DEQ has adequate resources to implement. Source shielded from only those requirements either included in the permit or determined by the DEQ at the time of permit issuance not to be applicable to the source.
Operational Flexibility	Alternative operating scenarios and emission trading.	Additional EPA-required flexibility provisions.
Review of DEQ Determinations	EQC contested case, state and federal courts.	Additional procedure for public petition by citizens to the EPA.

^{tttt} Sources that are not subject to Title V shall continue to be permitted under the existing Air Contaminant Discharge Permit Program, if applicable.

Relationship to Federal and Adjacent State Rules

The Federal Clean Air Act Amendments of 1990 require all states to develop and implement operating permit programs. One of the congressional intents in mandating this program was to ensure that federal air quality requirements were consistently complied with nationwide by the regulated community. The EPA's regulations and Oregon law not only require adoption of this program, but also require continuing existing state regulations, even if the existing regulations are more stringent. Areas in the proposed rule package where the Department has gone beyond the minimum federal requirements are outlined below.

The federal preamble to the Part 70 regulations stresses the following:

- "Nothing in Title V or the Act allows sources to violate applicable requirements."
- "It bears repeating that Title V permitting cannot relax any applicable requirements, including those contained in the SIP."
- "The Title V permit program is designed to complement SIPs in achieving improved air quality management across the country." and
- "Of course, the permit must also include the limitations with which each emissions unit must comply under any applicable requirements and must continue to ensure compliance with all applicable requirements, including the SIP."

The Department has followed instructions from the EPA in developing its federal operating permit program. ORS 468A.310(2) states "The commission shall adopt rules to implement the federal operating permit program. In implementing Title V for major sources, the commission and the department may take only those actions required to obtain the administrator's approval and to implement the federal operating permit program and other requirements of the Clean Air Act unless the commission finds there is a scientifically defensible need for additional actions necessary to protect the public health or environment." ORS 468A.325 also states "Nothing in ORS 468A.040, 468A.300 to 468A.320 or this section shall require the commission or department to make less stringent any existing element of the state's air pollution control program." The language from the federal preamble and the language from ORS 468A.300 through 468A.330 have been the guiding principles that the Department has used in drafting the federal operating permit program rules. The proposed rules do not backslide from the existing rules.

The Department has exceeded the federal minimum requirements where the existing program already does so. Elements that are currently more stringent than what the federal rules require have been retained in the new program. The Department has deleted areas of the Part 70 regulations that are less stringent than the existing Oregon Administrative Regulations (OARs), and has added the applicable OARs. The Department has tried to clearly state the requirements of the federal operating permit program in the proposed rules in order to make the program easier to implement.

The only areas in Division 28 where the Department is proposing more stringent rules than the federal regulations are where the existing SIP rules are currently more stringent. These areas include:

* Permit Application Content

The Department already requires the following in permit applications:

- Process flow charts, [OAR 340-28-2120(3)(b)];
- Estimated efficiency of control equipment, 340-28-2120(3)(c)(F)];
- Plot plans showing the locations of all emissions units, and nearest residential or commercial property applications, [OAR 340-28-2120(3)(d)]; and
- Land Use Compatibility Statements are required in permit applications, if applicable [OAR 340-28-2120(3)(o)].

* 12-Year Solid Waste Incineration Unit Permits

The Department does not allow for 12-year permits.

* Minor Permit Modifications - Emission Increases

Emission increases over permitted levels allowed by the minor permit modification (which does not require public notice) are not allowed under Oregon's existing rules. Other provisions in the federal operating permit program rules allow for increases of emissions above permitted levels.

* Minor Permit Modifications - Group Processing

Group processing of minor permit modifications is not being proposed since no increases are allowed under the minor permit modification process. Group processing would entail setting a threshold under which minor modifications could be processed in a group for one source.

* Verification for Off-Permit and Section 502(b)(10) Changes

The Department is proposing to request that owners or operators of federal operating permit program sources submit verification that the off-permit program or section 502(b)(10) change being proposed meets all the criteria.

* Information Required in Public Notice

The Department currently requires information on whether an increase of emissions impacts a Class I airshed, the attainment status of the area affected for whatever pollutant is being increased, and predicted impacts from any computer modeling done.

* Economic Incentive and Marketable Permits

The Department is not providing for permit modifications involving the use of economic incentives and marketable permits at this time.

* State-Only Enforceable Conditions Subject to Federal Procedural Requirements

The Department has proposed that state-only enforceable conditions shall be subject to the same procedural requirements as federally enforceable conditions.

There are four areas in the proposed Division 32 rules. These include:

* Amending the List of Hazardous Air Pollutants
[340-32-140]

While the federal Act provides for EPA amendment of the list, this rule allows the Commission to add substances to the List of HAP without the EPA having first added the substance; substances may not be deleted unless the EPA first does so. Additions to the list would be made through rulemaking based on a finding by the Commission of adverse effect to public health or the environment, consistent with the Commission's statutory authority.

* Permit to Operate
[340-32-240]

The EPA rules require that emissions of regulated air pollutants (i.e. those subject to a standard, regulation, or requirement) be quantified and reported as part of the permit process. The Department's proposed rules go beyond this requirement by requiring major HAP sources to estimate the annual usage of a specified list of additional toxic chemicals in the permit application. This information will:

- assist the Department in compiling information needed to determine if there are additional pollutants of concern being emitted in significant quantities in Oregon that warrant being added to the list of regulated pollutants;

- assist the Department in assessing program effectiveness by determining if emission of regulated pollutants are decreasing while emissions of non-regulated toxics are increasing; and

- provide the public with readily available information on additional chemicals potentially being emitted from a source.

- * Emissions Limitations for New, Existing and Modified Major Sources - State MACT
[340-32-500, 340-32-2500, 340-32-4500]

The federal Act requires EPA to develop emission standards for major HAP sources based on the Maximum Achievable Control Technology (MACT) criteria stated in the Act. The EPA will revisit each MACT standard 8 years after promulgation to determine the risk from any residual emissions after MACT is applied.

The Department's proposed rules require new and modified sources to quantify and address residual emissions at the time that MACT is applied. Sources may propose additional emission reduction measures to reduce residual emissions that exceed specified de minimis levels. Emission reduction measures include pollution prevention techniques, reductions in releases to other environmental media, or additional pollution control equipment. The source also has an option to conduct an air quality analysis which includes air dispersion modelling to demonstrate impacts from residual emissions. The Department will determine the adequacy of the proposed emission reduction measures or air quality analysis and may, if necessary, to protect human health and the environment, initiate rulemaking requiring additional control measures.

- * Emission Limitation for Existing Major Source - State MACT
[340-32-2500]

Section 112(j) of the federal Act requires that States develop MACT on a case-by-case basis for all sources in a category if the EPA fails to promulgate a standard on time. This standard must be equivalent to the emissions limitation that the EPA would have promulgated. The Department's Advisory Committee recommended, and unanimously agreed, that sources should be allowed to choose to achieve a limitation more stringent than the one that would have been promulgated in order to simplify the process of making the determination. The proposed rules provide affected sources with this option.

Authority to Address the Issue

The proposed new Oregon Administrative Rules are intended to implement the federal operating permit program as required by the Federal Clean Air Act Amendments of 1990. They are proposed under the authority of ORS 468.020 and 468A.310.

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

In January, 1993, the Industrial Source Control Advisory Committee was appointed by the Director, Fred Hansen, to assist the Department in the development of this major new program. Attachment J contains a list of the Advisory Committee members. At meetings in January through August, committee members reviewed and commented on discussion topics and draft rules. Attachment J contains a list of the past and future meeting dates. As a result of Advisory Committee input, many recommendations have been included in the proposed rules and staff reports. The Advisory Committee concurred with the version of the rules placed on public notice. Federal regulations, 40 CFR Part 70, were the basis for the Department's proposed rules and are proposed for incorporation into the Oregon Administrative Rules. Assistance in rule writing was received from Lane Regional Air Pollution Authority. Dialogue with Environmental Protection Agency staff aided in clarifying areas of confusion.

The Advisory Committee met on August 18 and reached consensus on all issues except Residual Emissions for new and modified Hazardous Air Pollutant sources. Advisory Committee members representing environmental groups support the Department's rule proposals, while those representing industry interests do not. Department staff will continue to work with industry representatives. If agreement can be reached with industry representatives by modifying rule language in this package, the Department will bring the modified rule language to the Commission meeting on September 10, 1993.

Division 20 (Attachment D) of the Oregon Administrative Rules contains procedural rules for stationary and indirect sources. In order to make the procedures for obtaining permits clear, the procedural rules for stationary sources are proposed to be deleted from Division 20 and added to Division 28 (Attachment B). Therefore, Division 28 will contain all procedural rules for obtaining an Air Contaminant Discharge Permit and a federal operating permit. In addition, Division 28 will contain rules that apply to all

sources in the state, including those sources that are only required to register with the Department.

The proposed rules to implement Title III, Hazardous Air Pollutants, were developed based on language in the Clean Air Act Amendments of 1990. Many recommendations from the Advisory Committee and Lane Regional Air Pollution Authority were incorporated into the proposed rules. Additional assistance was received by conferring with other state environmental agencies and EPA staff. A new division, Division 32 (Attachment C), has been proposed to contain the emission standards and other applicable requirements for sources of hazardous air pollutants.

The Department proposes an amendment to Division 14, Procedures for Issuance, Denial, Modification, and Revocation of Permits (Attachment E). Since Division 28 will contain all the procedural rules for sources subject to the federal operating permit program, Division 14 is not needed. The Department proposes to exempt the federal operating permit program sources from Division 14, as the NPDES and the RCRA programs have been.

Portions of this rulemaking affect the State Implementation Plan (SIP). Those portions affected are identified by a footnote. For the most part, SIP rules are only being renumbered at this time. Rules in implementing the Title V permit program are not intended to be part of the SIP.

In addition to state-wide public hearings, early during the public notice period the Department sponsored a state-wide teleconference. The purpose of the teleconference was to provide regulated sources and the public with background information about the proposed rule package to assist in their review and comment.

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

Sources subject to this program

Table 2 compares the stationary air sources currently regulated by the Department with the stationary air sources that will be regulated by the Department under the new Title V permitting program. As explained in the Table, approximately 300 sources will be subject to the new Title V program.

Table 2. A Comparison of Stationary Air Sources in Oregon under the Existing DEQ ACDP Program and the New Title V Permitting Program.

Source Type	Number of Sources ^{††}	Regulated by Existing ACDP Program ^{†††}	Proposed to be Regulated by Title V Permit Program
Major Sources <i>(Actual plant site emissions over 100 tons/year/criteria pollutant)</i>	150	Yes	Yes
Potential to emit > 100 tons per year <i>(potential plant site emissions greater than 100 tons/year/criteria pollutant)</i>	50	Yes	Yes
Potential to emit < 100 tons per year, and more than minimal <i>(potential plant site emissions less than 100 tons/year/criteria pollutant)</i>	400	Yes	No
Minimal Source Permits	530	Yes	No
Toxics - Major Sources <i>(potential plant site emissions greater than (or equal to) 10 tons/year/hazardous air pollutant; or 25 tons/year, or more, of any combination of hazardous air pollutants)</i>	150	No	Yes
Toxics - Minor Sources (Regulated Area Sources) <i>(potential plant site emissions less than 10 tons/year/hazardous air pollutant; or less than 25 tons/year of any combination of hazardous air pollutants)</i>	1000s	No	No

^{††} The number of sources for each source type is an estimate.

††† Sources that are not subject to Title V shall continue to be permitted under the existing Air Contaminant Discharge Permit Program, if applicable.

The operating permit program, as required by federal law, will apply to major sources, described as follows:

1. Air toxics sources with the potential to emit 10 tons per year (tpy), or more, of any hazardous air pollutant; 25 tpy, or more, of any combination of hazardous air pollutants.
2. Sources of air pollutants with the potential to emit 100 tpy, or more, of any pollutant.
3. Smaller sources in some nonattainment areas (no currently applicable areas in Oregon).
4. Affected sources under the acid rain provisions.
5. Any source required to have a preconstruction review permit pursuant to the requirements of the Prevention of Significant Deterioration (PSD) program or the nonattainment area, New Source Review (NSR) program.
6. Any other stationary source in a category the Department proposes, in whole or in part. (no other categories proposed currently)

A major source is defined in terms of all emissions units under common control at the same plant site (i.e., within a contiguous area in the same major group, two-digit, industrial classification or supporting the major group industrial classification).

The Act requires the EPA to establish emissions standards over the next seven years for categories of sources which release hazardous air pollutants (see Attachment I). (The EPA's schedule for 174 industrial source categories is included in the proposed rule package.) As proposed, Division 32 will apply these standards, as they are developed, to sources in Oregon. Congress has given the EPA the discretion to regulate sources of any size, as it considers appropriate. Small businesses that may be affected include metal finishers, surface coating and painting operations, printers, dry cleaners, and small manufacturers that have solvent degreasing or cleaning operations. However, only larger emissions sources will generally be required to obtain Title V permits from the Department. For example, all hard chrome platers will probably need permits, but other

businesses using less than about 2000 gallons per year of solvents or cleaners, or using less than about 3000 gallons per year of paints or other surface coatings, probably will not.

The Title V operating permit program, by incorporating all requirements into a single permit document, will enable the source, states, the EPA, and the public to better understand both the requirements to which the source is subject and whether the source is meeting those requirements. Another benefit of the Title V permit program is that it provides a ready vehicle for the states to administer significant parts of the substantially-revised federal air toxics program and the new acid rain program. Specifically, the Federal Clean Air Act requires that states use the permit system to administer the air toxics program. In addition, states will be responsible for reviewing and issuing permits to implement the second phase of the acid rain program (with permitting activities beginning in 1996) and will play a significant role in ensuring compliance with the acid rain regulations promulgated under Title IV of the Federal Clean Air Act.

Public Participation. Public notice is required for all initial Title V permits, all permit renewals, and all significant permit modifications. The public will have 30 days to comment on a proposed permit. If within 30 days after commencement of the public notice period, the Department receives written requests from ten (10) persons, or from an organization representing at least ten persons, for a public hearing to allow interested persons to appear and submit oral or written comments on the proposed permit, the Department shall provide such a hearing before taking final action on an application. As required by the EPA under Title V, any person may petition the EPA to make an objection within 60 days after the expiration of the EPA's 45-day period for review of the Department's proposed permit. Any petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period, unless the petitioner demonstrates that it was impracticable to raise the objection within the period or unless the grounds for such objection arose after the period. If the EPA objects to the permit, then the Department cannot issue the permit until that objection has been resolved.

Under the proposed rules for the control of hazardous air pollutants, the public may petition the Department to add chemicals to the list of regulated pollutants, provided there is significant scientific data to justify the addition. The public may also petition the Department to regulate additional industrial sources of hazardous air pollutants. The public will also have the opportunity under the proposed rules to review and comment on the Department's determinations of maximum achievable control technology for hazardous air pollutants.

Impact on the Regulated Community. There will be more comprehensive reporting and tracking of emissions in order to determine compliance with the underlying applicable or substantive requirements. Every application for a permit must contain a certification of the source's compliance status with all applicable requirements, including any applicable enhanced monitoring and compliance certification requirements. All permits must contain a compliance plan describing how the source will continue to stay in compliance or how the source will get into compliance. All compliance certifications must be verified by a responsible official for truth, accuracy, and completeness and must be submitted no less often than every six months.

The EPA requires that the state program contain provisions ensuring operational flexibility within a permit so that certain changes can be made within a permitted facility without a permit revision, provided that the change is not a modification, that it does not exceed permitted emission limits, and that at least 7-day notice is given to the Department. The operational flexibility provision contained in Title V must be implemented carefully and fairly so that a source can respond quickly to changing business opportunities while, at the same time, the Department is assured that the source will meet all applicable requirements of both the Federal Clean Air Act and state laws and regulations.

The permit shield provision of Title V enables states to provide sources with greater certainty as to their legal obligations under the Federal Clean Air Act. The Act also authorizes the Department to provide that compliance with the permit shall be deemed compliance with all other applicable provisions, if the applicable requirements are included in the permit or if the Department, in acting on the permit, determines that other such provisions are not applicable. This provision will be included in the final rules only if EQC determines that it can be sufficiently funded.

The regulated community will be subject to new requirements for the control, monitoring, and reporting of hazardous air pollutant emissions. Title III requires that emission standards be developed for source categories that emit any of the 189 EPA-listed hazardous air pollutants. The EPA's schedule for developing these standards appears in Attachment I, "Oregon Federal Operating Permit Program Rule Discussion Document".

The hazardous air pollutant emission standards, currently being developed by the EPA, will require major sources to implement maximum achievable control technology ("MACT") as defined in the Federal Clean Air Act. If a source is built or modified prior to the development of the EPA's standard or if the EPA should fail to promulgate a standard, the state is required to determine, on a case by case basis, a standard at least

as stringent as the forthcoming EPA standard. Title III also requires area (non-major) sources of hazardous air pollutants to comply with generally available control technology emission standards. Sources with the potential to "accidentally release" significant quantities of hazardous air pollutants will be required to submit Risk Management Plans to the Department and the EPA.

Many of the new requirements imposed by the 1990 Amendments, including the Title V permit requirements, will for the first time subject numerous small businesses to air pollution controls. The Federal Clean Air Act mandates that a program be established to provide assistance to small businesses to help them comply with these new requirements. This program was adopted by the EQC on October 16, 1992.

Other Agencies Affected. These rules enable LRAPA to implement the same program in Lane County as part of the statewide program.

The EPA requires that the EPA and affected states have 45 days to review and comment on proposed permits. The Department must consider neighboring state recommendations. The Department must also revise and submit a proposed permit to the EPA in response to the EPA's objections or refuse to issue the permit. If the Department fails to issue the permit, the EPA must issue or deny the permit.

Other agencies may become involved in the accidental releases program under Title III. To the extent possible, the Department will coordinate this process with other agencies. The state Fire Marshal's office, Oregon OSHA, and the U.S. Coast Guard may, upon request, review the risk management plans required to be submitted by sources that have the potential for accidental releases.

Department of Environmental Quality. Substantial changes to the existing permitting program are required by the Clean Air Act Amendments. These changes will affect not only the permitting sector of the Department's air program activities, but also all other functions that are related to industrial source control. Expanded regulatory activities will extend to a larger community, in greater detail and to more stringent standards as mandated by Congress.

Increased source accountability and better enforcement should result from these changes. The program will also greatly strengthen the Department's and the EPA's ability to implement the Federal Clean Air Act and to enhance air quality planning and control, in part by providing the basis for better emission inventories.

Title III requires the regulation of sources of 189 hazardous air pollutants not previously regulated. This will require the Department to issue permits to more sources and to ensure compliance with additional control technology requirements and with monitoring, reporting, and record keeping requirements. In addition, the Department will be required to perform case by case determinations of maximum achievable control technology standards for some sources prior to the issuance of EPA standards and for some source categories if EPA standard setting is delayed. Title III also requires the Department to include the requirements of the accidental releases program in the Title V program.

An approvable program must provide for judicial review of the permit action in state court. Such review must be available to the applicant, anyone who participated in the public participation process, and any other person who could obtain judicial review of the action under state law.

A change in the State Implementation Plan submittal requirements will enable the Department to implement existing rules for some sources more expeditiously and efficiently.

Summary of Significant Public Comment and Changes Proposed in Response

This section summarizes the significant comments and the changes to the rule draft presented at the public hearing the Department is now proposing in response to testimony. The Department received over 400 different comments from 55 people and organizations. The complete response is provided in Attachments G (Hearing Officer's Report/Department's Evaluation of Public Comment) and I (Detailed Changes to Original Rulemaking Proposal made in Response to Public Comment).

Definition of Major Source 340-28-110

The Department is proposing adding clarification that activities which support the major group classification are also included in the definition of major source. This is consistent with the federal rule preamble and the DEQ's current practice.

Synthetic Minor Sources 340-28-1740

The Department proposes clarifying when a source must obtain federally-enforceable limitations in a permit to stay out of the federal operating permit program. A source must do so before the federal operating permit application is due to the Department.

Technical Assistance and Source Guidance

While no rule change is proposed here, it is worth noting that several commenters remarked on the complexity of this program. As described in the Implementation Plan (Attachment K), the Department will provide workshops, technical assistance, source guidance and forms to assist sources in meeting the new rule requirements.

Opportunity for the Public to Request a Hearing 340-28-2290

The Department received comments that 30 days, rather than 14, should be provided to members of the public who want to request a public hearing on a proposed permit. The Department recommends that the Commission adopt rules providing 30 days.

Excess Emissions 340-28-1400 through 1460

The Department proposes to clarify that notification of a planned startup, shutdown, or maintenance event is generally not required if prior approval is obtained of procedures to minimize emissions during these events. An additional proposal is to modify the definition of "event" to encompass all excess emissions which arise from the same condition and which occur during a calendar day or successive calendar days. This change will reduce the administrative burden of previous reporting requirements.

Rules for EQC Delegation 340-28-2320 & 340-28-2200(1)(d)

The federal rules require that the agency administering the permit program have specific enforcement authority to address violations of program requirements by permitted sources. Oregon statutes contain all of the necessary authority. However, in some cases the legislature has delegated certain authority to the Commission and in some cases to the Department. ORS 468.100 provides for injunctive relief for program or permit violations, but it refers to the Commission and regional authorities, not the Department. Accordingly, the proposed rules contain provisions delegating this authority to the Department to make it clear that the Department need not seek Commission approval for such actions.

Insignificant Activities and Insignificant Changes

The federal rules, at 40 CFR 70.5(c), allow a state program to provide for a list of insignificant activities and emission levels. The Department has amended and refined the initial proposal provided for three types of insignificant activities in the Division 28 rules; categorically insignificant activities, exempt mixture usage, and aggregate insignificant emission levels for both criteria and hazardous air pollutant. Additionally, Division 28 will provide for insignificant changes to both

significant and insignificant activities. Furthermore, emissions from insignificant activities shall be considered for purposes of PSD/NSR (OAR 340-28-1900 through 2000) applicability.

Comments on Renumbered Rules

As described previously, this proposed rule package contains not only new rules, but a reorganization of existing rules. Several commenters suggested changes to rules that were only renumbered and reorganized. Since the Department did not put these rules on public notice to consider substantive changes, no substantive changes are proposed at this time.

Amending the List of Hazardous Air Pollutants

The Department has clarified the procedure, at 340-32-140, by which chemicals and compounds can be added or deleted from the list of regulated air pollutants by the Environmental Quality Commission.

Permit to Construct

The Department has added clarification and detail to the regulations at 340-32-230, which describe the applicability and application procedures by which an applicant must apply for an Air Contaminant Discharge Permit. The additions to the existing rule language now identify five types of HAP sources which will require preconstruction permits.

Permit to Operate - Quantifying Additional HAP [340-32-240(2)]

The Department's proposed rule went beyond the Federal program by requiring major HAP sources to estimate the annual usage of a specified list of additional toxic chemicals during the permit application process. This provision was added to address concerns of the public, and the Department, that there are toxic substances not included in the 112(b) list and that chemical users would switch to using unlisted, but equally toxic, chemicals to avoid regulation. During Advisory Committee discussions it was agreed that this added requirement was necessary and appropriate for the Department to meet its responsibilities, but there was concern that the reporting burden not be unreasonable. The permit process was determined to be the appropriate time to gather this information. In comments received by the Department concern over the manner of data reporting and the scope of activities which would be covered remained high. After further discussion with Advisory Committee members, the rule now proposed for adoption includes reporting ranges of chemical use, consistent with other release reporting requirements and with specific exemptions for insignificant activities outlined in the permitting rules.

Residual Emissions of HAP [340-32-500(4) and 340-32-4500(3)]

The Department's proposed rule went beyond the Federal program by requiring new and modifying sources to quantify emissions remaining after application of MACT, and to propose additional emissions reduction methods if residual emissions exceeded specified limits. The Department would then make these additional measures a part of the permit. Additional emissions reduction measures could include pollution prevention techniques or reductions in releases to other environmental media, as well as more traditional air pollution control methods.

This issue was debated at length in the Advisory Committee where all parties agreed that it was appropriate to address localized impacts of residual emissions during the construction permitting process. If done at this time it provides the public with the information they want and provides the source with the opportunity to make design changes prior to construction.

Based on the comments received and additional Advisory Committee discussion, the rule as now written still requires that residual emissions be quantified and addressed by the source if over the threshold. However, it now gives the source the option either of demonstrating that impacts from the residual emissions will not be harmful (using dispersion modeling), or of proposing additional emissions reductions. The Department has retained the de minimis emissions values originally proposed. It is still up to the Department to determine the adequacy of any proposed emissions reduction measures or air quality analysis, and it may initiate rule making to require additional control measures, if necessary to protect public health and the environment.

Requirements for Area Sources

The Department has added clarification and detail to the initial regulations governing area sources, at 340-32-5000, by separating the rule into three parts; Applicability, Permit Requirements, and Emissions Limitations. Area sources will be subject to Generally Available Control Technology emissions standards after the applicable GACT requirement has either been promulgated by the EPA, or adopted by the Commission.

Emission Standards

The Department has added language at 340-32-400 through 340-32-490, which requires compliance with any applicable emission standard, rather than exclusively a MACT standard, before the construction of a major source of hazardous air pollutant emissions. Additional language was added at 34-32-500, which subjects solid waste incineration units to

emission standards established under Section 111 of the CAA, rather than an emission standard developed under the case-by-case MACT determination process. Finally, language was added to the Residual Emission section of Division 32, which clarifies the available procedures to quantify the remaining residual emission of HAP from a new or modified major source after compliance with any imposed emission limitation, and the Department's available options to protect public health and the environment from any excessive remaining HAP emissions.

Accidental Release Prevention

The Department has renumbered and added clarification to the Accidental Release Prevention provisions of Division 32 at 340-32-5400 by requiring an annual submittal certifying that the risk management plan, prepared in accordance with the applicable federal regulations, is being properly implemented. The General Duty subsection was also removed as premature.

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

The federal rules require all Part 70 sources to submit permit applications to the Department within 1 year of the effective date (i.e., date of EPA approval) of the State program or by November 15, 1994. The Department proposes a phased-in approach and will require submittal of permit applications beginning February 1, 1994. Permits will not be put on public notice until the date of EPA approval of the program.

Once subject to the Part 70 operating permit program for one pollutant, a major source must submit a permit application including all emissions of all regulated air pollutants from all emissions units located at the plant. The source may include a list of categorically insignificant activities and all proposed insignificant chemical mixture usages, and a demonstration that all proposed insignificant criteria or hazardous air pollutant emissions are below the Department's established aggregate threshold limits. The Department must issue permits for at least one-third of the sources annually over a period not to exceed 3 years after the effective date of the program.

In accordance with Oregon law (ORS 468.310 to 468.330) and EPA rules and guidance, the Department proposes that sources not subject to Title V continue to be permitted under the existing Air Contaminant Discharge Permit (ACDP) program, if applicable.

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Sources that may be subject to Title V because their potential emissions are greater than 100 tons/year of criteria pollutants, 10 tons/year of any one hazardous air pollutant, or 25 tons/year of any combination of hazardous air pollutants may want to limit their physical potential to emit to less than 100 tons/year for any criteria pollutant (or 10/25 of hazardous air pollutants) to avoid Title V requirements. These sources (synthetic minors) may elect to be permitted under the existing ACDP program.

The requirements of Title III, Hazardous Air Pollutants, will be implemented through the Title V permit program as described above for major sources and area sources (unless exempted) of hazardous air pollutant emissions.

Attachment J, the Rule Implementation Plan, describes in detail the Department's plan to implement these rules.

Recommendation for Commission Action

It is recommended that the Commission adopt the rules/rule amendments regarding the federal operating permit program, hazardous air pollutants, and housekeeping amendments to existing rules as presented in Attachment A of the Department Staff Report.

Attachments

- A. Oregon Federal Operating Permit Program Rule Discussion Document
- B. The actual language of the Proposed Rule (amendments). Division 28 (Operating Permit Program Rules).
- C. The actual language of the Proposed Rule (amendments). Division 32 (Hazardous Air Pollutant Control Rules)
- D. The actual language of the proposed rule (amendments). Division 20 (Air Pollution Control Rules).
- E. The actual language of the proposed rule (amendments). Division 14 (Procedures for Issuance, Denial, Modification, and Revocation of Permits).
- F. Supporting Procedural Documentation:
 - 1. Legal Notice of Hearing
 - 2. Public Notice of Hearing (Chance to Comment)
 - 3. Rulemaking Statements (Statement of Need)
 - 4. Fiscal and Economic Impact Statement
 - 5. Land Use Evaluation Statement
- G. Presiding Officer's Report on Public Hearing/Department's Evaluation of Public Comment (Summary of Written Comments Received)
- H. Changes to Original Rulemaking Proposal made in Response to Public Comment
- I. Air Quality Industrial Source Control Advisory Committee - Members, Meeting Dates, and Report
- J. Rule Implementation Plan

Reference Documents (available upon request)

Written Comments Received (summarized in Attachment G)
(Other Documents supporting rule development process or proposal)

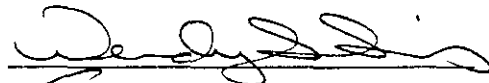
Documents relied upon in this rulemaking include:

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- Final EPA Rules, 57 Federal Register 32,250 (July 21, 1992), codified at 40 CFR Part 70
- Proposed EPA Rules, 56 Federal Register 43,842 (September 4, 1991)
- Federal Clean Air Act Amendments of 1990, 42 USC Sections 7661 et seq.
- Rules for controlling hazardous air pollutants from the states of Washington, Maryland, and Wisconsin
- National Emission Standards for Hazardous Air Pollutants, Subpart D -Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants, 40 CFR Part 63, Chapter I
- Enabling Document for Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants, EPA 450/3-91-013, OAQPS, July, 1991
- Questions and Answers about the Early Reductions Program, OAQPS, January, 1992
- Guidelines for Submitting Enforceable Commitments, USEPA, OAQPS, Emission Standards Division, May 1992

Approved:

Section:



Division:



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August 24, 1993

OREGON FEDERAL OPERATING PERMIT PROGRAM
RULE DISCUSSION DOCUMENT

This discussion document is provided to assist interested persons in understanding the content of the proposed rules.

I. Background and Purpose

This proposed rule package contains new rules and amendments to existing rules to fulfill Oregon's duty to comply with Title V of the Federal Clean Air Act Amendments (FCAA). Title V mandates that each state develop a comprehensive operating permit program for all major stationary sources of air emissions. Title V was added to the Clean Air Act on November 15, 1990. It requires that the EPA, within 12 months of enactment, promulgate regulations setting forth provisions under which states will develop operating permit programs and submit them to the EPA for approval. The EPA promulgated these regulations as Part 70 of Chapter I of Title 40 of the Code of Federal Regulations on June 29, 1992 [57 FR 32295].

States must develop and implement the operating permit program. The EPA must review each state's proposed program and oversee the state's efforts to implement any approved program, including reviewing proposed permits and vetoing improper permits. When a state fails to adopt and implement its own approvable program, the EPA must apply sanctions against the state or the relevant jurisdiction and ultimately also develop and implement a Federal permit program.

The addition of such a permitting program makes the Clean Air Act more consistent with other environmental statutes, including the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA), both of which have permit requirements. The program can also help implement market-based control strategies using improved monitoring and emissions tracking.

While Title V generally does not impose substantive new requirements, it does require that fees be imposed on sources and that certain procedural measures be followed, especially with respect to determining compliance with underlying applicable requirements. The proposed program will clarify, in a single document, which requirements apply to a source and, thus, should enhance compliance with the requirements of the Clean Air Act. Currently, a source's obligations under the Clean Air Act (ranging from emissions limits to monitoring, recordkeeping, and

reporting requirements) are, in many cases, scattered among numerous provisions of the SIP or Federal regulations. In addition, regulations are often written to cover broad source categories, therefore, it may be unclear which, and how, general regulations apply to a source. As a result, the Department often has no easy way to establish whether a source is in compliance with regulations under the Clean Air Act.

The proposed Title V permit program will enable the owner or operator of a source, states, the EPA, and the public to understand better the requirements to which the source is subject, and whether the source is meeting those requirements. Increased source accountability and better enforcement should result. The proposed program will also greatly strengthen the Department's and the EPA's ability to implement the Clean Air Act and enhance air quality planning and control, in part, by providing the basis for better emission inventories.

Another benefit of the Title V permit program is that it provides a ready vehicle for the states to administer significant parts of the substantially-revised federal air toxics program and the new acid rain program. This enhances the Department's ability to implement all programs under the Clean Air Act. Specifically, Title III of the Clean Air Act requires that states use the permit system to administer the air toxics program. In addition, states will be responsible for reviewing and issuing permits to implement the second phase of the acid rain program (with permitting activities beginning in 1996) and will play a significant role in ensuring compliance with the acid rain regulations promulgated under Title IV of the Clean Air Act.

Finally, an important benefit is that the permit program contained in these proposed regulations will ensure that states have resources necessary to develop and administer the program effectively. In particular, the permit fee provisions of Title V will require owners or operators of sources to pay the costs of developing and implementing the permit program. To the extent the fees are based on actual emission levels, the fees will create an incentive for owners or operators of sources to reduce emissions.

II. Summary of DEQ's Proposed Division 28 Rules

The proposed rules, in Division 28 of the Oregon Administrative Rules, contain the federal requirements with further new state rules as needed to explain the relationship between the Oregon SIP program, the Title III program, the Title V program and Title IV federal regulations. Division 20 of the Oregon Administrative Rules, Air Pollution Control, contains procedural elements for obtaining air pollution permits for all source types. The Department proposes that some of the rules in Division 20 related

to stationary sources be moved to Division 28 which would then contain all procedural rules pertaining to stationary sources. The regulations which had been in Division 28, Specific Air Pollution Control Rules for Clackamas, Columbia, Multnomah, and Washington Counties, were moved to Division 30 in housekeeping actions taken by the Environmental Quality Commission on January 29, 1993.

The Department proposes that Division 28 will contain five sections:

- Air Pollution Control Procedures,
- Rules Applicable to All Stationary Sources,
- Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits (ACDP) or Federal Operating Permits,
- Rules Applicable to Sources Required to Have ACDPs, and
- Rules Applicable to Sources Required to Have Federal Operating Permits.

The first section, Air Pollution Control Procedures [OAR 340-28-100 through 340-28-110], explains the procedures required to obtain any type of stationary air pollution permit and which regulations in Division 28 are applicable to that source. The Department proposes that all definitions for Division 28 be contained in the first section. As proposed, the second section [OAR 340-28-300 through 340-28-820] contains regulations applicable to all stationary sources. The proposed third section [OAR 340-28-900 through 340-28-1520] contains regulations applicable to ACDP sources and federal operating permit sources. The fourth section [OAR 340-28-1600 through 340-28-2000] contains regulations applicable to ACDP sources only, and the fifth section [OAR 340-28-2100 through 340-28-2550] contains regulations applicable to federal operating permit sources only.

Some of the existing rules, such as Highest and Best Practicable Treatment and Control Required, New Source Performance Standards, and National Emission Standards for Hazardous Air Pollutants, are also going to be changed to complete the permit program package. Stratospheric Ozone Protection rules will be added.

The proposed rules apply both to program implementation by the Department and, in Lane County, by the Lane Regional Air Pollution Authority (LRAPA). The Department proposes that references to "the Department" in the federal operating permit rules mean DEQ or LRAPA.

Oregon Revised Statute (ORS) 468A.310(3) states:

"[t]o the maximum extent possible * * * and within budgetary constraints, rules adopted by the commission * * * shall

include:

- (a) Streamlined procedures for expeditious review of permit actions * * *;
- (b) Assurances against unreasonable delays * * *;
- (c) * * * provisions to allow changes within a permitted facility without requiring permit revisions;
- (d) * * * protection for sources that file complete and timely permit applications;
- (e) Provisions that deem compliance with a permit to be in compliance with other applicable provisions of the Clean Air Act * * *;
- (f) * * * a deferral for early reductions of the requirements to meet standards promulgated under Section 112(d) of the Clean Air Act;
- (g) * * * provisions for alternatives to continuous emissions monitoring that provide sufficiently reliable and timely information; and
- (h) Notice and opportunity for public comment as required by the Clean Air Act and for objection by the administrator * * *."

Based on the Department's Workload Analysis, the Department believes amendments to existing statues are necessary to provide for development and implementation of the federal operating permit program. The Department believes Senate Bill 86 will provide authority for the fees and funding necessary to implement the program. Once Senate Bill 86 is enacted, a separate rulemaking will be undertaken regarding some Air Contaminant Discharge Permit Program fees and the federal operating permit program fees.

The Department is proposing changes to existing rules in order to integrate the federal operating program into the existing program. Many of the existing rules pertain only to sources having Air Contaminant Discharge Permits so changes have been made to continue the applicability of those rules to sources having federal operating permits. The following table summarizes the proposed changes made to existing rules and the reasons for the proposed change:

Table 1. Summary of Proposed Changes to Existing Rules and Reasons for the Proposed Change

Existing Regulation	Reason for Change
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Definitions	All definitions have been put into one rule for clarity. Multiple definitions have been omitted where possible or have been combined.
All regulations	Renumbering, consistent use of acronyms throughout
Registration	Federal operating program sources are exempt from registration.
Notice of Construction and Approval of Plan	Federal operating program sources are exempt from the requirements of Notice of Construction and Approval of Plans but are still required to obtain separate preconstruction and operation approval if the federal operating permit prohibits operation.
Plant Site Emission Limits	<p>PSEs will be used to limit production on request for synthetic minor sources and federal operating program sources.</p> <p>PSEs will apply to federal operating program source.</p> <p>PSEs will not generally be established for hazardous air pollutants but may be set for fee purposes.</p> <p>PSEs will not be established for categorically insignificant activities.</p>

<p>Excess Emissions</p>	<p>Flexibility to establish source specific immediate reporting requirements has been added.</p> <p>Approved procedures for planned startup/shutdown and scheduled maintenance need only be submitted annually unless changes are made.</p> <p>The emergency provision of Part 70 has been added to the excess emissions regulations, extending to all sources.</p> <p>An excess emissions "event" now means all excess emissions arising from the same condition and occurring during a calendar day or extending into successive calendar days.</p>
<p>Emissions Statements for VOC and NO_x Sources in Ozone Nonattainment Areas</p>	<p>Includes federal operating program sources.</p>
<p>Air Contaminant Discharge Permits</p>	<p>Regulations for synthetic minor sources were added.</p> <p>Federal operating permit program sources are exempt from obtaining an Air Contaminant Discharge Permit unless required under New Source Review.</p> <p>Brand new sources that would be subject to the federal operating permit program are required to obtain preconstruction approval in an ACDP then apply for a federal operating permit within 12 months of initial startup.</p>
<p>Table 4 - Air Contaminant Sources and Associated Fee Schedule</p>	<p>Corrected typographical errors, clarification on source description, included MACT analysis under hazardous air pollutant review.</p>

New Source Review	Regulations were added to give owners or operators an opportunity to incorporate a NSR permit administratively into the federal operating permit.
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The following is a detailed list of rules that are contained in the State Implementation Plan that have been revised, either through renumbering or because of revisions necessary for federal operating permit program approval. These rules shall be included in the SIP revision submitted to the EPA for approval.

Table 2. State Implementation Plan Rules Changes

Rule Number	Reason for Change
340-14-007	Revised
340-20-047	Revised
340-28-100	New rule
340-28-110	New rule
340-28-110 (2) (a) and (b)	Renumbered and revised
340-28-110 (6)	New rule
340-28-110 (7)	Renumbered and revised
340-28-110 (10)	Renumbered and revised
340-28-110 (11)	Renumbered
340-28-110 (12)	Renumbered
340-28-110 (13)	Renumbered and revised
340-28-110 (16)	Renumbered and revised
340-28-110 (17)	New rule
340-28-110 (18)	Renumbered
340-28-110 (19)	Renumbered and revised
340-28-110 (20)	Renumbered
340-28-110 (22)	Renumbered and revised
340-28-110 (24) (a)	Renumbered and revised

Rule Number	Reason for Change
340-28-110(25)	New rule
340-28-110(31)	Renumbered and revised
340-28-110(32)	Renumbered and revised
340-28-110(33)	Renumbered
340-28-110(36)	New rule
340-28-110(37)	Renumbered and revised
340-28-110(38)	Renumbered and revised
340-28-110(39)	Renumbered
340-28-110(44)(a)	Renumbered and revised
340-28-110(46)	Renumbered
340-28-110(47)	Renumbered
340-28-110(52)	Renumbered and revised
340-28-110(54)	Renumbered and revised
340-28-110(55)	Renumbered and revised
340-28-110(56)(a)	Renumbered and revised
340-28-110(58)	Renumbered and revised
340-28-110(59)	Renumbered
340-28-110(60)	Renumbered
340-28-110(61)	Renumbered
340-28-110(62)	Renumbered
340-28-110(63)	Renumbered and revised
340-28-110(64)	New rule
340-28-110(65)	New rule
340-28-110(68)	Renumbered and revised
340-28-110(69)	Renumbered and revised
340-28-110(70)	Renumbered and revised
340-28-110(71)(b)	New rule
340-28-110(72)	New rule
340-28-110(73)	Renumbered

Rule Number	Reason for Change
340-28-110 (75)	Renumbered
340-28-110 (76) (a)	Renumbered and revised
340-28-110 (77)	New rule
340-28-110 (78)	Renumbered and revised
340-28-110 (80)	Renumbered
340-28-110 (103)	Renumbered and revised
340-28-110 (104)	Renumbered and revised
340-28-110 (105)	Renumbered and revised
340-28-110 (106)	Renumbered and revised
340-28-110 (107)	Renumbered and revised
340-28-110 (108) (a)	Renumbered and revised
340-28-110 (110)	Renumbered
340-28-110 (111)	New rule
340-28-110 (113)	New rule
340-28-110 (116)	Renumbered and revised
340-28-110 (117)	Renumbered
340-28-110 (119)	Renumbered
340-28-110 (120)	Renumbered and revised
340-28-200	New rule
340-28-300	New rule
340-28-400	New rule
340-28-500	Renumbered and revised
340-28-510 through 700	Renumbered
340-28-800	Renumbered and revised
340-28-810	Renumbered
340-28-820	Renumbered and revised
340-28-900	New rule
340-28-1000 through 1040	Renumbered and revised
8340-28-1050 through 1060	New rule

Rule Number	Reason for Change
340-28-1100 through 1120	Renumbered and revised
340-28-1130	Renumbered
340-28-1140	Renumbered and revised
340-28-1400 through 1450	Renumbered and revised
340-28-1460	New rule
340-28-1500 through 1520	Renumbered and revised
340-28-1600	New rule
340-28-1700 through 1720	Renumbered and revised
340-28-1730	Renumbered
340-28-1740	New rule
340-28-1750	Renumbered and revised
340-28-1760	Renumbered
340-28-1770 through 1790	Renumbered and revised
340-28-1900 through 2000	Renumbered and revised

The proposed federal operating permit program rules contain existing rules from various divisions and statutes in order to make the federal rules consistent with existing rules. Federal operating permit program rules were also repeated in different areas to add clarification. The following table shows which existing rules have been pulled into the proposed federal operating permit program rules, which federal rules were repeated, and where these rules were pulled in.

Table 3. Where Existing Rules Have Been Merged or Part 70 Rules Have Been Repeated In the Proposed Federal Operating Permit Rules

Federal Operating Program Rule	Existing Rules Incorporated or Part 70 Rules Repeated
340-28-2120 (1) (b) (A)	340-14-020 (1)
340-28-2120 (1) (b) (B)	340-14-020 (2)
340-28-2120 (3) (b)	340-20-175 (1) (b)
340-28-2120 (3) (c) (C)	340-20-310 (1) (b) (2)
340-28-2120 (3) (c) (D)	340-20-010 to 340-22-025
340-28-2120 (3) (c) (E)	340-20-175 (1) (f)
340-28-2120 (3) (d)	340-20-175 (1) (c)
340-28-2120 (3) (n) (C) (iii)	70.6 (g) (3) (iv)
340-28-2130 (3) (c) (A)	340-20-046 (2) and (3)
340-28-2140	70.6 (b)
340-28-2160 (5) (c) (E)	70.6 (a) (3) (iii) (B)
340-28-2200 (1) (c)	340-14-035
340-28-2230 (3) (f)	70.7 (e) (2) (v)
340-28-2280 (2) (b)	468A.310 (3) (h) (B)
340-28-2280 (2) (c)	70.7 (g) (5) (i) and (ii)
340-28-2290 (2) (j)	340-20-230 (3) (b) (B)
340-28-2290 (4) (b)	340-14-025 (3)
340-28-2290 (4) (c)	340-14-025 (3)
340-28-2290 (5)	340-20-230 (3) (b) (F)
340-28-2300 (1)	340-14-025 (6)
340-28-2310 (3) (b)	468A.310 (3) (h) (B)

The Department has identified areas where permit processing efficiencies can be done. The following table shows which regulations incorporate the proposed efficiencies.

Table 4. Where Permit Processing Efficiencies Have Been Incorporated Into the Proposed Federal Operating Permit Rules

Rule Number	Oregon Process Efficiency
340-28-110	List of categorically insignificant activities that need only be listed in the permit application
340-28-2120(1)(b)(A)	Applications required in electronic format
340-28-2120(3)(q)	Submittal of previous permit application for renewal if no changes occurred to the emissions units
340-28-2230(1)(b)	Allows for name change of responsible official as administrative amendment, requires letter for change in contact person
340-28-2230(1)(c)	Allow for change in name of permittee by administrative amendment
340-28-2230(1)(f)	Allows for a change in reporting or source testing for extenuating circumstances by administrative amendment unless required by a compliance schedule
340-28-2230(1)(g)	Allows for relaxation of monitoring or reporting for a permanent source shutdown
340-28-2230(1)(i)	Allows for correction of baseline emissions or PSEL if better data is obtained
340-28-2230(1)(k)	Allows for correction of minor misinterpretations of an applicable requirement upon Department approval
340-28-2230(3)(c)	Administrative amendments will be issued in the form of an addendum for only changing conditions
340-28-2230(5)	Allows for a Department initiated administrative amendment
340-28-2250(2)(c)(A)	Minor permit modifications shall be issued only for changing condition
340-28-2200(1)(a)(E) and 340-28-2310(3)	Allows for parallel EPA review of draft permits if agreed upon by the EPA

Areas of the federal Part 70 rules were restructured for clarification in the proposed rules and are listed in the following table.

Table 5. Where the Federal Part 70 Rules Have Been Restructured for Clarification

Rule Number	Rule Subject
340-28-2110(4)(c)	Applicability: source category exemptions
340-28-2110(4)(b)	Applicability: source category exemptions
340-28-2120(1)(b)(A)	Permit Applications: complete application
340-28-2120(3)(k)	Standard application form and required information: additional information
340-28-2120(3)(l)	Standard application form and required information: additional information to define permit terms and conditions
340-28-2200(2)(a)	Permit Issuance: requirement for a permit
340-28-2250(2)	Minor Permit Modifications: minor permit modification procedures
340-28-2260(1)(b)	Significant Permit Modifications: criteria
340-28-2290(2)	Public Participation: description of public notice
340-28-2290(4)	Public Participation: timing
340-28-2310(4)(a)	Permit Review by EPA and Affected States: public petitions to EPA

A. Applicability [OAR 340-28-2110]

The operating permit program applies to major sources, defined as follows:

- Air toxics sources, as defined in Section 112 of the Clean Air Act, with the potential to emit 10 tons per year (tpy), or more, of any hazardous air pollutant listed pursuant to FCAA Section 112(b); 25 tpy, or more, of any combination of hazardous air pollutants listed pursuant to FCAA

Section 112(b); or a lesser quantity of a given pollutant, if the EPA so specifies [FCAA Section 501(2) (A)].

- Sources of air pollutants, as defined in Section 302, with the potential to emit 100 tpy, or more, of any pollutant [FCAA Section 501(2) (B)].
- Sources subject to the nonattainment area provisions of Title I, Part D, including those with the potential to emit pollutants in the following, or greater, amounts [FCAA Section 501(2) (B)]:

	<u>tons/year</u>
1. <u>Ozone</u> (Volatile Organic Compounds [VOC] and Nitrogen Oxides [NO _x])	
Serious	50
Transport regions not severe or extreme (VOC only)	50
Severe	25
Extreme	10
2. <u>Carbon Monoxide</u>	
Serious (where stationary sources contribute significantly)	50
3. <u>Particulate Matter</u> (PM-10)	
Serious	70

[NOTE: Currently all nonattainment areas in Oregon are currently classified in less serious categories. New Source Review sources would be subject to the operating permit program only if permitted to emit 100 tons per year or greater of any pollutant.]

- Any other source, including an area source, subject to a hazardous air pollutant standard under Section 112, except asbestos demolition and renovation, unless a deferral is allowed by the EPA, proposed by the Department, and approved by the Environmental Quality Commission (EQC).
- Any source subject to New Source Performance Standards (NSPS) under Section 111, except woodstoves, unless a deferral is allowed by the EPA, proposed by the Department, and approved by the EQC.
- Affected sources under the acid rain provisions of

Title IV [FCAA Section 501(1)].

- Any source required to have a preconstruction review permit pursuant to the requirements of the Prevention of Significant Deterioration (PSD) program under Title I, Part C or the nonattainment area, New Source Review (NSR) program under Title I, Part D.
- Any other stationary source in a category the Department proposes, in whole or in part.

A major source is defined in terms of all emissions units under common control at the same plant site (i.e., within a contiguous area in the same major group, two-digit, industrial classification or supporting the major group industrial classification). The Department has added clarification that activities that support the major group industrial classification are also included in the definition of a major source. The federal preamble states that "any equipment used to support the main activity at a site would also be considered as part of the same major source regardless of the 2-digit SIC code for that equipment." The Department currently uses this practice since it is allowed by OAR 340-20-160.

The Title V operating permits program requires all Part 70 sources to submit permit applications to the Department within 1 year of the effective date (i.e., date of the EPA approval) of the state program. Once a major source is subject to the Part 70 operating permit program for one pollutant, the owner or operator of that major source must submit a permit application including all emissions of all regulated air pollutants from all emissions units located at the plant, except for categorically exempt insignificant activities. The program applies to all geographic areas in Oregon regardless of their attainment status of the Ambient Air Quality Standards.

The EPA has determined that compliance with the Part 70 regulations during the early stages of the program would prove to be unnecessarily burdensome for non-major sources and impracticable and infeasible for permitting authorities as well. Therefore, to promote an orderly phase-in of the program, states can defer coverage temporarily for all sources which are not major. The Department proposes to defer non-major sources from Title V permitting [OAR 340-28-2110(4)]. Some of these sources may already be subject, however, to the state ACDP program. The EPA plans to complete a

rulemaking to consider further deferral or permanent exemption for non-major sources within 5 years of the date the EPA first approves a state program that defers such sources.

All deferred sources would be required to submit permit applications within 12 months after completion of the future EPA or EQC rulemaking, unless they are sources or source categories that receive a continued exemption in the future rulemaking. Any owner or operator of a source whose obligation to obtain a permit is deferred may request a permit prior to the end of the 5-year deferral period [OAR 340-28-2110(4)(c)].

In addition, the Department proposes to grant the permanent exemption allowed for those non-major sources and source categories subject to Title V solely because they are subject to the NSPS for new residential wood heaters or the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos from demolition and renovation activities [OAR 340-28-2110(4)(a)(A) and (B)]. The Department may add additional non-major source categories when the EPA promulgates rules, and the non-major sources become subject to Section 112, and thereby subject to Title V.

In accordance with the EPA rules and guidance, the Department proposes that sources that are not subject to Title V shall continue to be permitted under the existing ACDP program, if applicable [OAR 340-28-1740]. Permitting requirements for owners or operators of these sources will not change. Sources that may be subject to Title V because their potential emissions are greater than 100 tons/year may want to limit their physical potential to emit to less than 100 tons/year for any pollutant to avoid Title V requirements. The owners or operators of these sources (synthetic minor sources) may elect to be permitted under the ACDP program and would be required to pay supplemental Title V fees for the cost of permitting and enforcing the provisions that restrict their sources' physical potential to emit (limits on hours of operation or production levels, for example).

Owners or operators of synthetic minor sources must obtain an ACDP, containing federally enforceable conditions limiting potential to emit and reporting and monitoring conditions to determine compliance with such limits, before they would otherwise be required to submit a federal operating permit application. If, for example, the owner or operator of a potential synthetic minor source were required to submit a federal

operating permit application by May, 1995, he or she would need to obtain an ACDP limiting potential to emit before this date. If an ACDP was not obtained by this date, an owner or operator would be required to submit a federal operating permit application. Enforceable conditions, in addition to the PSEL established under OAR 340-28-1000 through 340-28-1060, shall include one or more of the following physical or operational limitations but in no case shall exceed the conditions used to establish the PSEL:

- (1) restrictions on hours of operation;
- (2) restrictions on levels of production;
- (3) restrictions on the type or amount of material combusted, stored, or processed;
- (4) additional air pollution control equipment; or
- (5) other limitations on the capacity of a source to emit air pollutants.

The Department has provided in OAR 340-28-1740(7) and 340-28-2110(3)(d) that the owner or operator of a synthetic source that exceeds the limitations on potential to emit is in violation of OAR 340-28-2110(1)(a), operating a major source without a federal operating permit. Synthetic minor sources are major sources by definition because they have the potential to emit at greater than the major source emission thresholds. The only reason that owners or operators of synthetic minor sources are not required to obtain a federal operating permit is because of the federally enforceable limitation on potential to emit. Therefore, if a synthetic minor source exceeds the limitations on potential to emit, it is in violation of being a major source without a federal operating permit, even if its actual emissions are less than the major source emission thresholds. The source still has the potential to emit at greater than the major source emission thresholds.

The Department may require the synthetic minor source permittee who violates OAR 340-28-2110(1)(a) to submit a federal operating permit application, unless the permittee resolves the problem through the ACDP process. The rules require the Department to take appropriate enforcement action for violation of being a major source without a federal operating permit. As stated earlier, the decision to operate as a synthetic minor source and the specific parameters chosen to limit potential to emit are up to the owner or operator. If an owner or operator cannot comply with the limitations on potential to emit, he or she should not apply to operate as a synthetic minor source. If the owner or operator of a synthetic minor source

requests an increase in that source's PSEL (but the source still remains a synthetic minor), an application for a modified ACDP must be submitted. The modified permit, which contains the higher PSEL and the modified enforceable limits on potential to emit, must be received before the source can operate in excess of the original synthetic minor conditions.

Owners or operators of synthetic minor sources may choose to obtain a federal operating permit if they discover they cannot operate under the federally enforceable limit on potential to emit. A federal operating permit must be obtained before exceeding the federally enforceable limit if existing capacity is used rather than construction or modification of the source. If the increase above the federally enforceable limit on potential to emit is due to construction or modification, an owner or operator must submit an application to have the existing ACDP modified. An application for a federal operating permit must be submitted within 12 months of initial startup of the construction or modification.

Owners or operators of sources which have been issued federal operating permits may elect to obtain a synthetic minor permit at a future date if they discover that they could operate with a limit on potential to emit and avoid the Title V requirements. Again, the ACDP limiting potential to emit would have to be obtained before an owner or operator would be relieved of compliance with the federal operating permit.

Owners or operators of existing sources that are not major sources under the federal operating permit program who construct or modify, causing their source to be subject to the federal operating permit program, must submit an application to modify the existing ACDP. An application for a federal operating permit must be submitted within 12 months of initial startup of the construction or modification.

B. Complete Permit Application [OAR 340-28-2120(1)(b)]

The Department proposes to establish specific criteria to be used in defining a complete permit application in guidance for owners or operators of sources and the Department. The Department also plans to use the completed application forms as checklists themselves. Under the Department's proposal, a complete application would be one that the Department has determined to

contain all the necessary information needed to begin processing the permit application. If the Department determines that additional information is needed before making the completeness determination, the Department shall notify the owner or operator of a source in writing and set a reasonable deadline for the response. The application would not be considered complete for processing until adequate information is received. If after the completeness determination has been made, the owner or operator of a source fails to provide timely updates to the application that the Department needs to issue the permit within the specified deadlines, the Department would rescind the completeness determination. If the completeness determination is rescinded, the 18-month review period shall begin again after a complete application is received, and the application shall not be shielded.

The Department must provide notice of completeness determinations to the owner or operator of a source. In the event that no notice is provided to the owner or operator of a source within 60 days after receipt of the application by the Department, the application shall be deemed complete.

An owner or operator of a source who files a timely and complete application for a permit or a renewal would not be liable for failure to have a permit if the Department delays in issuing or reissuing the permit, provided this delay was not due to the applicant's failure to respond in a reasonable and timely manner to written requests from the Department for additional information needed to evaluate the application [OAR 340-28-2120(1)(b)(F)]. This protection, known as an application shield, also applies to Title V sources requiring both new Title V and New Source Review permits that are administratively incorporated into an existing Title V permit. These sources must have a preconstruction permit consistent with the requirements of Parts C and D of Title I, and must have a complete application filed for a Title V operating permit within 12 months of commencing operation, unless some earlier date is required by the Department. Under these proposed rules, owners or operators are required to submit Title V applications within 12 months of commencing operation.

In general, the Department proposes that complete applications be submitted according to the transition schedule approved within the Part 70 program and in a timely way for subsequent renewals [OAR 340-28-2210]. "Timely" for renewals means 12 months prior to

expiration of the permit, unless some greater time is needed (not to exceed 18 months) to ensure that the terms of the permit do not lapse before they are revised or renewed. The Department proposes that owners or operators submit renewal applications 12 months prior to expiration. If the Department determines that an owner or operator of a federal operating permit program source should submit a renewal application more than 12 months before expiration, it shall provide the owner or operator at least six (6) months to prepare the application. An application from an owner or operator who has made numerous off-permit changes or section 502(b)(10) changes that need to be incorporated upon permit renewal may require more than 12 months to process.

The Department proposes that a complete application is one that contains information which identifies a source, its applicable air pollution control requirements, the current compliance status of the source, the source's intended operating regime and emissions levels, and must be certified as to their truth, accuracy, and completeness by a responsible official after making reasonable inquiry [OAR 340-28-2120(5)]. Additionally, the Department proposes that each permit application would, at a minimum, include a completed standard application form (or forms) and a compliance plan. The Department will distribute guidance for owners or operators of federal operating permit program sources along with the permit applications forms that will help explain the application requirements, in addition to the whole permitting process.

The Department is requiring all owners or operators of sources that have existing Air Contaminant Discharge Permits to include these permits as part of a federal operating permit application [OAR 340-28-2120(3)(i)]. Owners or operators shall identify which permit conditions are no longer applicable and the reason. This requirement will ensure compliance with the ACDP, in addition to the information submitted in the federal operating permit application, because owners or operators are required to be in compliance with the permit application in order to obtain an application shield. The Department shall carry over all existing ACDP terms and conditions that still apply into the federal operating permit, realizing that some permit terms and conditions will need to be changed because of changes in rules, i.e., Highest and Best Practicable Treatment and Control.

The Department proposes to allow the application to cross-reference relevant materials if they are current and clear with respect to information required in the permit application. Such might be the case where an owner or operator is seeking to update his or her Title V permit based on the same information used to obtain an NSR permit, or where an owner or operator is seeking renewal of his or her Title V permit and no change in source operation or in the applicable requirements has occurred. An owner or operator must verify that any cross-referenced documents are on file with the Department. If the cross-referenced documents contain any data that is required to be summarized in the electronic format, an owner or operator of a federal operating permit program must fill in such information for the permit application to be determined complete. If extra copies of the cross-referenced documents are required (for submittal to the EPA or public notice), the owner or operator shall supply extra copies.

The Department proposes that the compliance plan describe how the owner or operator plans to maintain compliance or achieve compliance with all applicable air quality requirements [OAR 340-28-2120(3)(n)]. The exact contents and details required in the compliance plan would depend on the compliance status of the source regarding each applicable requirement. The Department proposes that this plan include a schedule of compliance, if the source is not in compliance with an applicable requirement and a schedule for the source owner or operator to submit progress reports to the Department no less frequently than every 6 months where applicable. Currently the Department requires owners or operators to submit progress reports seven days after the completion of each increment of progress in a compliance schedule. The Department proposes to continue this practice with Part 70 sources. Under the Department's proposal, each owner or operator of a Part 70 source must submit a compliance certification report at least once a year in which he or she certifies the source's status with respect to each requirement, and the method used to determine the status.

Owners or operators of federal operating permit program sources are also required to submit a compliance certification as part of the permit application. The compliance certification must include a certification of compliance with all applicable requirements, a statement of methods used for determining compliance, a schedule of submission of compliance certifications, and a statement indicating the source's compliance status with any applicable enhanced monitoring

requirements.

OAR 340-28-2130(3)(a)(C) states that "Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to OAR 340-28-2130(3)(c)." It is up to each individual owner or operator to propose a way to determine compliance with his or her permit, OAR 340-28-2120(3)(n), in the permit application. If an owner or operator must source test annually to determine compliance, then he or she should propose to do so and should propose whatever additional measures will enable the compliance certification requirements to be met every six months. This does not necessarily mean additional source testing will be needed. The federal operating permit program can be and is more stringent than the existing regulations in many instances. The federal operating permit program shifts the burden of compliance demonstration to sources rather than the Department.

If source testing or continuous monitoring is part of the compliance plan, the owner or operator must comply with the Department's Source Sampling Manual or the Continuous Monitoring Manual. These manuals were adopted as part of the Oregon State Implementation Plan in January, 1992.

The minimum data elements required in all standard application forms, as well as the basic requirements for compliance plans and compliance certifications, are presented in Section 70.5 of the federal regulations. With the exception of certain federal programs (e.g., acid rain), the EPA will not specify that any particular form be used by states as long as the minimum data elements are provided. The Department proposes to require state application forms which will be developed based on the current air program forms, EPA model forms, and other state needs. The Department is developing streamlined methods for reviewing permit application information. Included in the streamlined procedures are electronic forms for permit applications. The Department shall evaluate database systems that will work in conjunction with the permit application forms to calculate emissions for permits. Rather than input all the data from a hardcopy, it would be more efficient for the Department to be able to read a disk with the information already on it.

Additional information may be required from some subject sources. For example, those located in nonattainment areas under Part D of Title I may be required to fulfill the emissions statement requirements for certain sources of VOC and NO_x [OAR 340-28-1500]. Similarly, sources of hazardous air pollutants subject to Section 112 which are attempting to comply with alternative emissions limits would also need to submit additional information.

The Department has provided an option to owners or operators of federal operating permit program sources in the permit application to propose consolidation of reporting requirements wherever possible. The Department realizes that some reporting requirements for air quality may be redundant with the reporting required by other media. The Department hopes that this option will relieve some of the burden of reporting while still requiring adequate information to determine compliance with the permit.

Owners or operators would be allowed to provide less detailed information on insignificant activities. The final part 70 regulations at 70.5(c) provided that less burdensome procedures for insignificant activities or emission levels could be developed by states.

The owner's or operator's request to have an activity treated as insignificant must be submitted in a complete Title V permit application. For a categorically insignificant activity, which is exempt from PSELS, the owner or operator need only list the activity. For any activity that is proposed to be designated as insignificant under the insignificant mixture usage or aggregate insignificant emission regulations, the owner or operator must additionally supply substantiating information which clearly demonstrates that the activity will remain in continual compliance with all applicable requirements during the permit term. In reviewing each permit application, the Department will determine which requests meet the criteria for insignificant activity designation. Owners or operators may be required to provide additional information on activities determined to not satisfy the established insignificant activity criteria.

The proposed definition of "emissions unit" will determine the level of detail required in Title V applications and permits. Owners or operators are required to include in the permit application all

elements of the EPA rule 40 CFR 70.5(c) for a complete application and all applicable requirements for all relevant emissions units [OAR 340-28-2120(1)(c)]. A narrow definition of emissions unit would require more detail in the application and the permit and would require an owner or operator to make FCAA Section 502(b)(10) changes or modifications to its permit when making insignificant changes to the group of parts and activities within an emissions units. A broader definition of emissions unit would require less detail in the application and permit and would allow owners or operators to make off-permit changes when making insignificant changes to parts or activities within an emissions unit.

The Department has expanded the definition of emissions unit to clarify the federal definition. The EPA's proposed definition states in 40 CFR 70.2 that "Emissions unit means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any air pollutant listed under 112(b) of the Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Act".

The terms "part" and "activity" need additional clarification to assist the Department in consistent implementation of "emissions unit" and to reduce the burden on the Department of including unnecessary detail in permits. A clarified definition also provides owners or operators with additional flexibility when quantifying emissions for each emissions unit and when making minor changes to an emissions unit.

The Department has clarified the word "part" by defining it as any product, byproduct, raw material, machine, or equipment that emits air pollutants. Examples of a part include; a boiler, a paint spray booth, a printing press, a lime kiln, a wood chip storage pile, an organic liquid storage tank, and an electric arc furnace. An "activity" has been defined as any process, operation, action, or reaction that produces emissions and includes solvent cleaning operations, conveying and segregating operations, gravel and aggregate crushing, organic liquid transfer and loading operations, photo resist and wave soldering processes, and paint spraying operations not contained in a paint spray booth.

The Department's definition of "emissions unit" allows for the grouping of multiple parts and/or activities to

define one emissions unit. The Department's intention was to define the scope of emissions unit to allow flexibility in the permitting process to reduce the burden on both industry and the Department while requiring adequate information to accurately assess emissions and compliance. The following scenarios illustrate the Department's intent with regards to grouping for emissions units.

(1) An electronics manufacturing facility contains 15 individual workstations at which miscellaneous parts are hand cleaned using trichloroethane (TCA). The hand cleaning operation taking place at each workstation can be defined as an activity. The same applicable requirements apply to all of the workstations being grouped. The emissions of TCA from the workstations are quantifiable and can be estimated using material balance because the total quantity of TCA used for hand cleaning operations can be tracked. Grouping the 15 workstations as one emissions unit complies with the intent and definition of emissions unit. However, if some of the workstations used methylene chloride (a HAP but not a VOC) and some of the workstations used isopropyl alcohol (a VOC but not a HAP) then the workstations may not be grouped into one emissions unit if different applicable requirements would apply.

(2) A papermaking mill has three boilers that vent to one common stack. One boiler is a power boiler subject to NSPS emission standards, one boiler burns multiple fuels and is subject to emission standards for several criteria and hazardous air pollutants, the third boiler is used for backup purposes only and is subject to operating restrictions. Although the three boilers exhaust to a common emission point, they are subject to individual emission standards and compliance requirements. Therefore, this group would not meet the definition of emissions unit. However, if each boiler were subject to the same applicable requirements the group could be defined as an emissions unit.

(3) A wood door manufacturing facility includes sawing, milling, and planing operations. The entire facility is essentially one large room that is exhausted through one common stack to a common baghouse for emissions control. The facility is subject to a particulate emissions standard and compliance is determined with annual source tests of the baghouse. The emissions for the facility are quantifiable based on emission factors applied to the quantity of board feet processed. In this case, the entire facility could be defined as one emissions unit for particulate

emissions. The source also has two VOC coating lines where varnish is applied to some doors and others are spray painted. Each VOC coating operation would be considered an emissions unit for VOC emissions. This illustrates how emissions units may be defined on a pollutant by pollutant basis.

(4) A semiconductor manufacturing plant tracks all of its solvent usage through one chemical storage room. The facility contains several similar solvent cleaning operations that operate throughout many buildings at the facility. Both the location and operation of the solvent cleaning processes change frequently depending on the product being manufactured and the production schedule. The owner or operator can quantify the total amount of chemical used in the cleaning operations on a daily basis. The owner or operator would like to group the similar solvent cleaning activities as a single emissions unit entitled "solvent usage". This scenario would be allowable under the proposed definition of emissions unit provided there are no separate emissions standards that apply to individual units within the group (such as a RACT or MACT standard) and no separate compliance requirements apply. Also, the facility must be able to quantify both VOC and individual HAP emissions from the emissions unit if applicable. In addition, the owner or operator must be able to demonstrate that all the individual parts or activities which make up the emissions unit are in compliance with all applicable requirements when a representative from the Department conducts an inspection of the facility.

The proposed definition includes provision (d) which does not allow owners or operators to group new parts and activities with an existing emissions unit if this interferes with determining if BACT or LAER requirements apply under New Source Review [OAR 340-28-1900 through 2000]. BACT and LAER are applied to those emissions units that have an increase in emissions as a result of a modification that triggers New Source Review. Under New Source Review, an emissions unit is an individual part, not a group of parts or activities. Essentially, condition (d) requires that a BACT or LAER determination be made for those individual parts or activities that are new or modified and part of the project that triggers New Source Review prior to combining those parts or activities with an existing emissions unit. If the BACT or LAER determination results in additional applicable requirements for the new or modified parts or activities, then those parts or activities would not be allowed to be grouped with an existing emissions unit to which the applicable

requirement does not apply unless the owner or operator agrees to comply with the additional applicable requirement (BACT or LAER) for the entire emissions unit. For example, a facility has three existing boilers that are considered one emissions unit. The source proposes to add a fourth boiler and shut down one of the existing three boilers, resulting in no net increase in emissions. Provision (d) requires that the applicability of BACT or LAER be determined for the new (fourth) boiler alone. If BACT or LAER is not applicable to the increase in emissions from the new boiler than it can be grouped with the three existing boilers as one emissions unit. If BACT or LAER does apply to the new boiler than the boiler must be its own emissions unit or it can be grouped with the three existing boilers if the source agrees to apply the BACT or LAER limitation to all of the boilers.

The Department added language under provision (d) of the definition to include the applicability of NSPS standards. This was added in response to a concern that the definition as proposed may have conflicted with the application of NSPS standards to individual parts or activities similar to the conflict with applying BACT or LAER requirements. Provision (d) now also prevents grouping of new parts or activities with an existing emissions unit if it interferes with determining the applicability of a New Source Performance Standard (NSPS). The applicability of a NSPS must be determined for the new part or activity before it can be grouped with any existing emissions unit.

The Department asked for comment on the proposed definition of emission unit. In particular, the Department asked for a presentation of scenarios in which the definition allowed too much flexibility or did not allow for adequate identification and quantification of the source's emissions. The Department was particularly interested in scenarios in which the proposed definition did not allow adequate flexibility for owners or operators. In identifying scenarios where the proposed definition did not allow essential operating flexibility, commentators were requested to demonstrate why that flexibility couldn't be achieved through the use of alternative operating scenarios or other operational flexibility mechanisms. Commentors were also asked to address how a broadened definition of emissions unit could still provide adequate compliance assessment. The Department received only minor comments on the definition which resulted in grammatical changes.

Owners or operators are currently required to submit information on emissions in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method and to establish PSELS for all regulated air pollutants in their permit applications [OAR 340-28-2120(3)(c)(C)]. The proposed regulations provide more detail to clarify when a owner or operator can request a period longer than hourly for the short term PSEL. Most permitted sources have hourly PSELS since the applicable standard reference test methods are one hour tests. Owners or operators may request that a period longer than hourly be used for the short term PSEL provided that the conditions of (1) and (2) are met:

- (1) the requested period is consistent with the means for demonstrating compliance with any other applicable requirement and the PSEL requirement, and
- (2) (a) the requested period is no longer than the shortest period of the Ambient Air Quality Standards for the pollutant, which shall be no longer than daily for VOC and NO_x, or
(b) the applicant demonstrates that the requested period, if longer than the shortest period of the Ambient Air Quality Standards for the pollutant, is the shortest period compatible with source operations.

A request for a period longer than one hour, such as the Ambient Air Quality Standard for a pollutant, would require an owner or operator of a federal operating permit program source to submit a compliance plan consistent with the longer averaging time. For example, an owner or operator could request that the averaging time consistent with the particulate standard (24 hours) be used rather than an hourly rate. The owner or operator would be required to perform three individual test runs, each test lasting for 24 hours to comprise a single source test to demonstrate compliance with the daily limit.

Under the Part 70 regulations, there are three types of emission trading that are allowed: (1) trading where the applicable implementation plan (SIP) provides for such trades without requiring a permit revision; (2) trading solely for the purpose of complying with a federally-enforceable emissions cap that is established independent of otherwise applicable requirements; and (3) trading to the extent that the applicable requirements provide for trading without a case-by-case

approval.

The Oregon SIP does not allow for the first type of trading. Under the existing rule, Alternative Emission Controls (Bubble) [OAR 340-28-1030], a bubble is required to be established as a permit modification. Consequently, it does not meet all the requirements of the first type of trading allowed by Part 70. Therefore, the Department is proposing to omit this type of trading from the regulations. This trading provision could be added if a future SIP revision meets the criteria for this type of trade.

The second type of trading is currently done under existing rules, [OAR 340-28-1010 through 340-28-1020] Plant Site Emission Limits. The PSEL is a federally enforceable limit that is established independent of otherwise applicable requirements. Owners or operators are allowed to trade some emissions within the facility in order to comply with the PSEL. Under the Part 70 regulations, this type of trading must be provided. The permit must contain terms and conditions that ensure the trades are quantifiable and enforceable. More detail would be required in the federal operating permits allowing for this type of trade, but the principal would remain the same.

The third type of trading applies when a regulation allows for more than one means of compliance. An example of this type of trading is the existing rule, General Emission Standards for Volatile Organic Compounds [OAR 340-22-170]. This rule, Surface Coating in Manufacturing, gives an owner or operator two options for being in compliance: the use of complying coatings or the use of an add-on control device. In writing a permit for a VOC source, the Department usually requires an owner or operator to choose which method of control shall be used and puts that control requirement in the permit. Under the trading provision, a permit could allow an owner or operator to vary which compliance method is used. Since this type of trading is required by Part 70, the Department is proposing to incorporate it in the rules. There may be additional examples of this type of trading; however, the Department is unaware of any at this time.

C. Permit Content [OAR 340-28-2130]

As required in Section 70.6 of the federal regulations, the Department proposes that permits meet all applicable requirements of the Clean Air Act and

include the following:

- A fixed term, not to exceed 5 years [FCAA Section 502(b)(5)(B)], except that affected sources under Title IV must have 5-year fixed terms [FCAA Section 408(a)]. Under FCAA Section 129(e) of the Clean Air Act, solid waste incinerators may have up to a 12-year fixed term. The current state program uses a 5-year maximum term for all major sources. Therefore, the Department's proposal does not include a longer term for solid waste incinerators. The 12-year incinerator permit would add an unnecessary program complication.
- Limits and conditions to assure compliance with all applicable requirements under the Clean Air Act, including requirements of the applicable implementation plan [FCAA Section 504(a)] and Title IV.
- A schedule of compliance (where applicable), which is defined as a schedule of remedial measures [FCAA Section 504(a) and 501(3)].
- Inspection, entry, monitoring, compliance certification, recordkeeping, and reporting requirements to assure compliance with the permit terms and conditions, consistent with any monitoring regulations that the EPA promulgates under FCAA Sections 504(b), 114, and 504(c). Nothing in this regulation should be read to require continuous emissions monitoring in situations where it is not otherwise prescribed.
- A provision describing conditions under which any permit for a major source with a term of 3 or more years must be reopened to incorporate any new standard or regulation promulgated under the Clean Air Act [FCAA Section 502(b)(9)].
- Provisions under which the permit can be revised, denied, terminated, modified, or reissued for cause.
- Provisions ensuring operational flexibility within a permit so that certain changes can be made within a permitted facility without a permit revision, provided that the change is included in the list of alternative operating scenarios or the change qualifies as an off-permit change.
- A provision that nothing in the permit or

compliance plan issued pursuant to Title V of the Clean Air Act shall be construed as affecting allowances under the acid rain program [FCAA Section 408(b)].

- A provision ensuring that all acceptable alternative operating scenarios identified by the owner or operator of a source are included in the permit [FCAA Section 502(b)(6)].

All terms and conditions in a Part 70 permit, including any provisions designed to limit a source's potential to emit, would be enforceable by the Department, the EPA, and citizens. The Department is required by EPA to identify those provisions in the permit which are not required under the Clean Air Act or under any of its applicable requirements (i.e., state origin only) as not being federally enforceable [OAR 340-28-2140]. The Department proposes to label all terms and conditions in a federal operating permit as being state-only or federally enforceable to clarify requirements for owners or operators. Like all other permit terms, a term which the Department fails to designate as not federally enforceable would not be subject to challenge after 90 days.

The Department's State Implementation Plan includes numerous rules and amendments to rules which have not yet been approved by the EPA. The SIP provisions approved by the EPA are applicable requirements which are federally enforceable. Regulations which have been adopted by the EQC but not approved by the EPA shall be enforceable only by the state. Once EPA approves a SIP submittal, the relevant state only enforceable requirements will be federally enforceable. In addition, any applicable state air quality rules which are not intended to be part of the SIP will be state only permit provisions.

The federal language states that if the requirements are not federal requirements, then they must be labeled as such and are not subject to any requirements of the federal operating permit program (except for the requirement of § 70.6(b)(2) that they be labelled as not federally enforceable). Because the state-only requirements are not federally-enforceable, they are not subject to EPA enforcement or citizen suits.

The Department believes that it would be too complicated and confusing to have state-only enforceable conditions subject to different procedures for standard permit requirements, compliance

requirements, permit shield, permit issuance, permit renewal and expiration, operational flexibility, administrative permit amendments, permit modifications, reopening, and public participation. Therefore, the Department has made state-only enforceable conditions subject to these federal requirements under Part 70.

If the Department has proposed a State Implementation Plan (SIP) revision that contains new rules adopted by the Commission that has not yet been approved by the EPA, the new rule would be a state-only enforceable condition. The old rule in the EPA-approved SIP is the federally enforceable rule. An example of the possible confusion caused by exempting state-only enforceable conditions from federal requirements under Part 70 would be for excess emissions reporting. Owners or operators would be required to submit two excess emissions reports, one for exceedances of the state-only enforceable condition and another for the federally enforceable condition.

Another example would be for a state-only emissions standard which affects a source's Plant Site Emission Limit (PSEL). Since the PSEL is a federal applicable requirement, permit changes made pursuant to the state-only emission standard could have to go through both procedures unless the procedures were combined as proposed. These situations would be highly counter-productive.

If the Department exempted state-only enforceable conditions from any requirements of the federal operating permit program (except for the requirement of Statute 70.6(b)(2)), then the state-enforceable conditions would not be covered under the permit shield. Since the Department has exempted state-enforceable conditions from only the EPA and affected state review, these conditions shall be covered under the permit shield.

The EPA, neighboring states, and in some cases, the public will not have the opportunity to review or object to state-only conditions in a federal operating permit. Therefore, state-only requirements cannot be incorporated into a federal operating permit administratively. The Department believes that after receipt of notification of the State Implementation Plan approval from the EPA, federal operating permits will be reopened to change state-only enforceable conditions to federally enforceable conditions, where applicable.

The proposed rules include provisions for permit shields [OAR 340-28-2190]. Section 504(f) of the Clean Air Act defines the permit shield provision of Title V. This Section authorizes the Department to provide that compliance with the permit shall be deemed compliance with all other applicable provisions of the Clean Air Act, if the applicable requirements of such provisions are included in the permit, and the Department, in acting on the permit, determines that such other provisions (which shall be referred to in such determinations) are not applicable. This determination or a concise summary thereof must be included in the permit. The permit shield does not protect a source from non-compliance with applicable requirements in the permit. The permit shield shall not extend to applicable requirements which are not included in the permit or the summary of the determination. The permit shield also does not extend to applicable regulations, standards, implementation plans, or other requirements promulgated after issuance of a Title V permit.

As required by the EPA, the Department proposes to prohibit the use of the shield when the owner or operator initiates changes that result in requirements becoming applicable to the source beyond those contained in the permit (until such changes are later incorporated into the permit). Owners or operators seeking to obtain or renew a Part 70 permit cannot be shielded from enforcement actions alleging violations of any applicable requirements (including orders and consent decrees) that occurred before, or at the time of, permit issuance. In addition, owners or operators may not be shielded from requests for information from the EPA pursuant to Section 114 of the Clean Air Act. The shield cannot extend to minor permit modifications (and to some changes made under the operational flexibility provisions pursuant to the EPA rule, 40 CFR 70.4(b)(12), and to most administrative permit amendments).

The shield proposed in these rules extends to exceedances of ambient air quality standards. However, the permit reopening rule allows for reopening of a permit if a source causes violation of an National Ambient Air Quality Standard (NAAQS) [OAR 340-28-2280(1)(a)(E)]. The reopening would allow the Department to incorporate stricter permit conditions to ensure compliance with the NAAQS. This process was recommended by the advisory committee.

D. Operational Flexibility

The Department proposes to implement the operational flexibility provision contained in Title V carefully and fairly so that an owner or operator can respond quickly to changing business opportunities while, at the same time, the Department is assured that the owner or operator will meet all the applicable requirements of the FCAA [OAR 340-28-2220]. The Department solicited comments on all aspects of the operational flexibility provisions during the public notice period. Some commentors stated that operational flexibility provisions were confusing. The Department agrees with this statement and has tried to add as much clarification as possible. In the guidance that the Department is preparing for owners or operators of federal operating permit program sources, many examples will be given with clearer direction on how to implement the operational flexibility provisions. Alternatives, where allowed, are presented along with the Department's current recommendation.

The following list contains permit provisions required to provide owners or operators such flexibility. These permit provisions would not require a modification to the permit. The provisions are presented in the order of difficulty for the owner or operator making a change:

1. Alternative Operating Scenarios [OAR 340-28-2220(1)]

This feature appears to maximize opportunities for owners or operators of sources while making efficient use of Department resources. If a permit contains approved alternative operating scenarios, it will be a more complete representation of the operation at the permitted facility. Moreover, there will be less need for permit modifications to accommodate different operations at the facility. Obviously, all scenarios must comply with the underlying applicable requirements.

Based on recommendations from the Advisory Committee, the Department proposes the following definition for "alternative operating scenarios" as the different conditions including equipment configurations or process parameters under which a source can operate that:

- a. require different terms and conditions in the permit to determine compliance;

- b. emit different regulated pollutants;
- c. are identified in the permit application;
- d. approved by the Department; and
- e. listed in the permit.

Variations on an identified operating scenario that does not trigger (a) or (b) above and which emits less pollutants than the identified scenario would be considered to be part of the identified scenario, not separate alternative operating scenarios. Scenarios not identified and approved by the Department would be subject to permit modification procedures. Any permit shield may extend to alternative operating scenarios approved by the Department in the permit issuance process.

There are no existing regulations that specifically address alternative operating scenarios. Currently, Department practice is to calculate Plant Site Emission Limits (PSELs) for different authorized operating scenarios (e.g., burning residual oil or natural gas; drying Douglas fir or pine). A PSEL is the total mass emissions per unit time of an individual air pollutant specified in a permit. The Department calculates the worst-case authorized scenario at a facility to define the PSEL. Calculation of the PSELs in this manner gives the owner or operator the flexibility of operating at alternative scenarios that emit less than the PSEL, provided that they are within the scope of the permit. Owners or operators are not currently required to record changes in operating scenarios.

Contemporaneous recording of all changes in operating scenarios shall be required of the owner or operator. This would assure the Department and the public that owners or operators only operate under Department approved alternative operating scenarios listed in the permit. Owners or operators are not required to submit the record of changes of alternative operating scenarios on a periodic basis but shall make the record available or submit the record upon request of the Department.

The Department strongly encourages owners or operators to maximize use of this feature by thoroughly considering, prior to submitting a

permit application, the reasonably anticipated operating scenarios which are in use or could be in use during the permit term unless prevented from doing so because of extraordinary circumstances such as confidentiality. The Department realizes that all operating scenarios cannot be identified in the application for a projected five year period due to unforeseeable changes. Owners or operators may be able to realize cost savings by providing as many alternative operating scenarios as possible to minimize additional permit modifications in the future. The Department is considering giving low administrative priority to processing requests to modify permits to include alternative operating scenarios which could have been submitted with the full permit application.

2. Insignificant Activities [OAR 340-28-2120(3)(c)(D)]

Currently, the Department regulates only production related air pollutant emissions through its permitting program. The Department is aware that non-production activities associated with industrial production functions are sources of air pollution potentially subject to regulation under the Title V program. Therefore, the Department proposes to establish a boundary with these insignificant activity rules, which simultaneously provides the necessary information to measure compliance with all applicable requirements of Title V, while not burdening the owner or operator or the Department with unnecessary information. The Department realizes that even though an activity may be designated as a categorically insignificant activity at a federal operating permit program facility, it may not be insignificant in the air shed (e.g., motor vehicle exhaust emissions).

The Department generally considers emission units with emissions less than 0.1 ton per year of criteria pollutants (except for lead) and most nonproduction-related emissions to be insignificant. Additionally, in the Department's interim air toxic policy, emissions of air toxics below the Department's established Significant Emission Rate (SER) are considered to be insignificant.

Each state that chooses to allow insignificant

activity exemptions must establish criteria to define which activities and emissions may be considered insignificant. The Department has proposed implementation of an initial program, in which exemptions will be provided for categorically insignificant activities, (OAR 340-28-110(15)), insignificant use of chemical mixtures, (OAR 340-28-110(50)), and emissions below established aggregate threshold limits, (OAR 340-28-110(5)).

The Department is proposing to exempt categorically insignificant activities from both the Plant Site Emission Limit (PSEL) and any reporting requirements, except for the determination of New Source Review/Prevention of Significant Deterioration applicability. Insignificant mixture usage and aggregate insignificant emissions are subject to the PSEL and the reporting requirements associated with off-permit changes.

The Department has committed to a revisitation of this issue, after one (1) year of program implementation, incorporating forthcoming EPA guidance and operating permit experience, as appropriate.

3. Insignificant Changes [OAR 340-28-110(49)]

The Department's proposed regulations define insignificant changes to be those off-permit changes to significant and insignificant activities meeting all of the following established criteria:

- a. does not result in a redesignation from an insignificant to a significant activity;
- b. does not invoke an applicable requirement not included in the permit;
- c. does not result in emission of regulated air pollutants not regulated by the source's permit; and
- d. cannot relax any existing Title V permit reporting or compliance term or condition.

Examples of insignificant changes that would be allowed, include, but are not limited to:

- adding an insignificant amount of a new hazardous air pollutant;

- rerouting an insignificant amount of multiple emissions to different pieces of pollution control equipment with no increase in emissions;
- change in paint color or brand of raw materials; or
- enclosing a materials conveyor.

The Department will produce and periodically update Title V permitting guidance, which will contain examples and methodologies of insignificant activity and insignificant change determinations. The Department additionally expects to enlarge the initial lists of categorically insignificant activities and insignificant changes as additional EPA guidance becomes available, and additional comment is received and reviewed during the public comment period for the Title V rules. and 340-28-2220(2)(b)]

4. Off-permit Changes [OAR 340-28-2220(2)]

The EPA provides that the permit program may allow changes at a facility that are not addressed or prohibited by the permit terms (so-called "off-permit" changes), provided they meet each of the following requirements:

- a. Each change shall meet all applicable requirements and shall not violate any existing permit term or condition.
- b. Owners or operators must provide contemporaneous written notice to the Department and the EPA of each change, except for changes that qualify as insignificant.
- c. The change shall not constitute a Title I modification.
- d. The change shall not be subject to any requirements under Title IV of the Clean Air Act.
- e. The change shall not qualify for the shield.
- f. The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.

The EPA also requires the notices submitted by the owner or operator to be attached to the permit and the terms and conditions resulting from the off-

permit change to be incorporated into the permit upon renewal, if the change is still applicable. The Department has added rule language requiring owners or operators of federal operating permit program sources to submit verification that the proposed change does meet the criteria of an off-permit change. The Department feels that the owner or operator must go through this thought process before classifying the change as an off-permit change. Submitting this information to the Department will explain why the proposed change meets the criteria and will streamline the review process.

The Department proposes to allow off-permit changes and require contemporaneous written notice to the Department except for those changes that qualify as insignificant changes. Changes that require an administrative amendment, or minor or significant permit modifications would not be allowed as off-permit changes. Examples of off-permit changes that the Department proposes to allow include:

- adding an insignificant amount of a new hazardous air pollutant or
- rerouting the exhaust of multiple emissions units to different pieces of pollution control equipment (no change in emissions) provided that no change is needed in the source's compliance demonstration method.

Throughout the federal regulations, references are made to "Title I modifications" yet the EPA did not provide such a definition. Title I modifications include any change that triggers applicability of New Source Review (NSR) requirements (FCAA Part D), Prevention of Significant Deterioration (PSD) requirements (FCAA Part C), a New Source Performance Standard (FCAA Section 111), or new source Maximum Achievable Control Technology (FCAA Section 112). The proposed rules reference the state or federal requirement that should be examined to determine whether one of these provisions is triggered. For NSR and PSD, the determination is made under the state rules. For NSPS, the federal rules apply regardless of whether the state rules incorporate the federal rule. For hazardous air pollutants, Section 112 of the FCAA and Department interpretation thereof based on federal guidance would apply until clarified through further

rulemaking. The Department is proposing to review one type of Title I modification (NSR/PSD) under the existing Air Contaminant Discharge Permit program. The other two types of Title I modifications (NSPS and new source MACT) shall be reviewed under the proposed construction/operation modification rule under the federal operating permit program.

5. FCAA Section 502(b)(10) Changes [OAR 340-28-2220(3)(a)]

FCAA Section 502(b)(10) changes are changes at a facility that contravene permit terms or conditions without requiring a permit revision, if the changes are not modifications under any provision of Title I of the Clean Air Act, the changes do not violate any applicable requirement, and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions).

For each such change, the 7-day advance written notification required shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, any permit term or condition that is no longer applicable as a result of the change, and the new term or condition applicable to the change. Written notices shall be attached to the permit and the terms and conditions that result from the section 502(b)(10) shall be incorporated upon permit renewal, if the change is still applicable.

The permit shield shall not apply to any 502(b)(10) change.

Examples of 502(b)(10) changes identified by the Department include:

- fuels not identified in the permit (no emissions increases)
- changing from solvent-based to aqueous-based cleaners

The Department sought input during the rule comment period on additional examples of 502(b)(10) changes but none was received.

The Advisory Committee is in agreement that

502(b)(10) changes need to be allowed and suggested incorporating the federal language verbatim. The committee said that experience may prove that 502(b)(10) changes cause problems in ensuring compliance but should be allowed for now. Based on this recommendation, the Department proposes incorporating the federal language. In addition, the Department has added language that would require owners or operators of federal operating permit program sources to submit verification that the proposed change does indeed meet the criteria of a section 502(b)(10) change, similar to the verification for off-permit changes.

E. Permit Issuance and Review

Regulations concerning the processes for permit issuance, review, renewal, revision, and reopening are found in Sections 70.7 and 70.8 of the federal regulations [OAR 340-28-2100 through 340-28-2320]. The Department must provide notice to affected states and the EPA of permit applications received and proposed permits.

1. Permit Notification to the EPA and Affected states [OAR 340-28-2310]

The Department must submit to the EPA the following:

- The application for any permit, renewal, or revision, including any compliance plan, or any portion the EPA determines it needs to review the application and permit effectively; and
- Each proposed permit and each permit issued as a final permit by the state [FCAA Section 505(a)(1)].

The Department is required to notify all affected states of each permit application that must be forwarded to the EPA. Affected states are those whose air quality may be affected and that are contiguous to the state in which the source is located, or those within 50 miles of the source. The Department must give all such states an opportunity to submit written recommendations for the permit. If the Department refuses to accept those recommendations, it must provide its reasons for refusal in writing [FCAA Section 505(a)(2)].

2. The EPA Review and State Response

The Clean Air Act authorizes the EPA to object to any permit that would not be in compliance with the applicable requirements of the Clean Air Act. If the EPA objects within 45 days after receiving either the proposed state permit or the notice that the Department has refused to adopt an affected state's recommendations for the permit, the Department must respond to the EPA in writing. The EPA must provide the Department and permit applicant a statement of reasons for the objection [FCAA Section 505(b)(1)].

The Department may not issue a valid Title V permit if the EPA has objected unless the Department revises the permit to meet the EPA's objections. The Department has 90 days after the EPA's objection to revise the permit. If the Department fails to do so, the EPA must issue or deny the permit [FCAA Section 505(c)]. As directed by ORS Chapter 468A, the proposed rules require the Department to either issue the revised permit meeting the EPA's objection or decline to issue the modified permit. Before taking timely final action, the Department expects to discuss objections with the EPA to ensure that the objection is understood and not based on misinterpretation.

The Department has provided for the opportunity for simultaneous EPA, affected states, and public review in OAR 340-28-2200(1)(a)(E) and 340-28-2310(3) if agreed upon by the EPA. To implement this, the EPA would review draft permits and only review proposed permits if the draft permit required changes as the result of the public comments. This would allow the EPA only 15 days to review comments received from the public and affected states. If numerous changes to the draft permit were required, the Department would need to allow for additional EPA review time. The Department feels that providing for simultaneous review will expedite the permitting process.

3. Judicial Review and Public Petition [OAR 340-28-2290]

An approvable program must provide for judicial review in state court of the permit action. Such review must be available to the applicant, anyone who participated in the public participation

process, and any other person who could obtain judicial review of the action under state law [FCAA Section 502(b)(6)].

A permit is subject to court review under Oregon's Administrative Procedures Act through two procedures. If the applicant seeks review by the Commission of the permit, then judicial review is pursuant to the provisions contained in ORS 183.482 for review of contested cases. If a non-applicant seeks judicial review of a permit, the provisions of ORS 183.484 for judicial review of orders other than contested cases apply. The Department proposes that Oregon's federal operating permit rules specify that any person who participated in the public participation process is an "adversely affected" or "aggrieved" person for purposes of ORS 183.484.

Within 60 days after the expiration of the 45-day EPA review period, any person may petition the EPA to veto a permit if the EPA fails to object. The objections in the petition must have been raised during the public participation period on the permit provided by the state issuance process, unless the petitioner shows that it was impracticable to raise the objections at that time. The petition does not postpone the effectiveness of a permit that has been issued.

The EPA must grant or deny a petition within 60 days after it is filed. If the permit has not been issued, the EPA must issue an objection if the petitioner demonstrates to the satisfaction of the EPA that the permit is not in compliance with the Clean Air Act. If the Department has already issued the permit and the petition is granted, the EPA will modify, terminate, or revoke the permit, and the Department may issue a revised permit only if it meets the EPA's objection [FCAA Section 505(b)(3)]. Where the EPA objects to a permit and the Department fails to meet the EPA's objection, the EPA must then issue or deny the permit.

4. Reopenings [OAR 340-28-2270]

Under the EPA rules, the Department must revise all major source permits with a remaining life of 3 or more years to incorporate applicable requirements under the Clean Air Act that are promulgated after issuance of the permit. Such revisions must be made using the revision procedures that meet the requirements for permit

revision and must be made within 18 months after the promulgation of the new requirement. No revision is required if the effective date of the requirement is after the expiration of the permit term [FCAA Section 502(b)(9)] unless the Commission declares an emergency. The Department may terminate, modify, or revoke permits for cause [FCAA Section 502(b)(5)(D)].

The Department proposes to reopen a permit, when the permit contains a material mistake made in applying the emissions standards or limitations or in other permit requirements; when new requirements become applicable (as above); when the EPA objects to a permit; when an application is found to contain a material mistake; for noncompliance, serious danger to public health and safety, irreparable damage to a resource, unapproved changes, false information provided in an application, or other grounds as determined by the Department; or when required under the Title IV acid rain regulations. These grounds for reopening are from the EPA's rules and Division 14 of the Department's rules. Suggestions on additional grounds for permit reopening were solicited during the public notice period but none were received. Based on the lack of comments, the Department proposes no change to the rule as put on public comment.

Phase II acid rain permits will need to be reopened to incorporate NO_x provisions. Excess emission offset plans and all allowance allocations and transfers, however, must be deemed incorporated into each unit's permit, upon recordation or approval by the EPA, without further permit revision and review under Title IV.

If the EPA finds that cause exists to reopen a permit, the EPA must notify the Department and the owner or operator. The Department has 90 days after receipt of the notification to forward to the EPA a proposed determination of termination, modification, or revocation and reissuance of the permit. The EPA may extend the 90-day period for an additional 90 days if a new application or additional information is necessary. The EPA then may review the proposed determination under the review procedures of permit issuance. If the Department fails to submit a determination or if the EPA objects to the determination, the EPA may

terminate, modify, or revoke and reissue the permit. The EPA must provide notice and "fair and reasonable procedures" when it terminates, modifies, or revokes and reissues a permit [FCAA Section 505(e)].

5. Permit Revisions

Several mechanisms are provided in Part 70 for permit modification and administrative amendments that are needed to revise the Part 70 permit to accommodate changes which would otherwise violate terms and conditions of the permit. While states are required to provide for expeditious permit revisions, they have considerable flexibility in doing so. The EPA requires states to provide adequate, streamlined, and reasonable procedures for expeditiously processing permit modifications. States may meet their obligation by adopting the approach outlined in the EPA's rules or one which is substantially equivalent. The Department proposes to use the federal mechanisms, with modifications to reflect additional applicable requirements under the Oregon SIP.

Administrative amendments are permit revisions that include correction of typographical errors or changes in address or source ownership [OAR 340-28-2230]. The Department proposes that these be accomplished by the Department without public or EPA review. Another type of administrative amendment involves the incorporation of requirements established under the state New Source Review permitting program that meet procedural requirements that are applicable and substantially equivalent to those contained in Sections 70.7 and 70.8 and the compliance requirements contained in Section 70.6 (e.g., monitoring, recordkeeping, reporting, and compliance certification) of the federal regulations. This would only be an administrative amendment if the source was constructed and would be operated as specified in the New Source Review approval.

The Department proposes to also allow administrative amendments to be made for the following changes: a change in the name of the permittee or the responsible official; a change in the date for reporting requirements or source testing requirements for extenuating circumstances except when required by a compliance schedule; a

relaxation of monitoring, reporting, or recordkeeping due to a permanent source shutdown for only the emissions unit(s) being shutdown; corrections of baseline emissions and PSEs with no increases in actual emissions; and corrections of minor misinterpretations of an applicable requirement upon Department approval. The Department proposes to allow for changes in the persons identified for various purposes in the permit application, except for the responsible official, to be done by a letter amendment, rather than requiring an administrative permit amendment.

The EPA's description of the most streamlined process it would approve for all other types of permit revisions is set forth in Section 70.7(e) of the federal regulations. It employs two types of permit modification procedures for changes that go beyond the activities allowed in the original permit or that increase the total emissions allowed under the permit:

- Minor permit modifications, and
- Significant permit modifications.

The model provision contained in Section 70.7(e) of the federal regulations defines the types of permit modifications that a state could decide to process through minor permit modification procedures. They include modifications that reflect increases in permitted emissions that do not amount to modifications under any requirement of Title I and that do not meet certain other requirements. Minor permit modification procedures require that an owner or operator provide advance notice of the proposed change, but allow a change to take effect prior to the conclusion of the revision procedures.

Under the EPA's model procedures for minor permit modifications, changes may be made by the owner or operator after it files a complete application with the Department [OAR 340-28-2250]. The state may approve the proposed modification at any time. The EPA has 45 days from the date it receives notice from the state to review the proposed modification, and the Department cannot finally issue the permit until after the EPA's review period has ended, or until the EPA has notified the Department that the EPA will not object to the issuance of the permit modification, although the Department may disapprove the modification prior

to that time. The modification procedures must generally be completed and final action taken by the Department no later than 90 days following the filing of a complete application.

The Oregon SIP requires increases in permitted emissions to be approved only if they are consistent with the Plant Site Emission Limits rule. The approval process requires a public notice and comment opportunity. Accordingly, the Department cannot allow increases in permitted emissions to be processed through minor modification procedures.

The Department originally proposed to allow owners or operators, at their own risk, to initiate modifications after 45 days even if approval has not been obtained. By waiting 45 days, the owner or operator should have an indication from the Department and the EPA whether the modification will be approved as a minor modification. The waiting period was also more consistent with the review procedures under the existing Notice of Construction (NC) rules. The Department assumed that changes made under the existing NC rules would be similar to changes made as a minor modification under the federal operating permit program.

The Department has drafted new proposed rules for construction under an existing federal operating permit (see discussion under I. Construction Permitting/Title V Relationship in this document). The new rules contain review procedures similar to the NC rules. Therefore, the need to maintain the 45-day waiting period before initiating a minor permit modification is no longer necessary. The Department has deleted the 45-day waiting period and shall allow owners or operators of federal operating permit program sources to initiate minor permit modifications upon application submittal, as specified in the federal rules. As required by the EPA, the owner or operator would not be protected from underlying applicable requirements by any shield and may be subject to enforcement proceedings for any violation of these requirements if the application is subsequently denied.

The EPA regulation also provides an opportunity for the Department to modify the minor permit modification procedures to process in groups

applications for changes at the lowest levels of emissions increases. The EPA's regulation provides that an owner or operator may request in its application that changes, below a set threshold, be aggregated during a 90-day period, or until they reach the applicable threshold level, whichever comes first. These changes would then undergo the minor permit modification process, including review by the Department, affected states, and the EPA.

The Department proposes to not provide for group processing of minor permit modifications. Since emissions increases cannot be processed as minor modifications, there is no need to establish a threshold level of emissions for processing minor modifications in groups. Provisions for alternative operating scenarios, insignificant activities and off-permit changes should minimize the need for group processing of minor permit modifications. The Department solicited comments on the merits and need for group processing during the public notice period. Most commentors agreed with the Department's position not to provide for group processing of minor permit modifications. One commentor stated that this provision should be retained. Based on the public comments, the Department proposes no change to the rule as put on public comment.

Under the minor permit modification option outlined by the EPA, owner or operator who make a change before a permit revision has been issued, do so at their own risk. They are not protected from underlying applicable requirements by any shield. They are afforded only a temporary exemption from the formal requirement that they operate in accordance with the permit terms that they seek to change in their modification application. Should the Department or the EPA ultimately reject an owner's or operator's proposed permit modification, the owner or operator would be subject to enforcement proceedings for every day of any violation of the applicable requirements. As required by the EPA, the Department proposes that the permit shield under Section 70.6(f) of the federal regulations would not apply to minor permit modifications issued by the Department. If an owner or operator makes a change before a minor modification is approved by the Department, he or she would be subject to enforcement proceedings for violation

of the existing applicable requirements.

The other type of permit modification procedures described are for significant modifications [OAR 340-28-2260]. After receipt of an application for a significant permit modification, the Department would review only the specific changes proposed in the application and their impact on the continued compliance of the Part 70 source with all applicable requirements of the Clean Air Act, state law and regulations.

The Department proposes that modifications that involve emission increases above the Plant Site Emission Limits be processed as significant modifications by the Department. Owners or operators would be allowed to submit increases of emissions up to the threshold for New Source Review or Prevention of Significant Deterioration as a significant modification.

Under the EPA regulations, sources subject to requirements of the acid rain program must hold allowances to cover their emissions of SO₂. These sources would have conditions in their permits prohibiting emissions exceeding the number of allowances held. Owners or operators of sources holding emissions allowances under the acid rain program may buy, sell, or trade those allowances. Allowance transactions registered by the EPA would be incorporated into the source's permit as a matter of law, without following either the permit modification or amendment procedures described above.

6. Permit Renewal [OAR 340-28-2210]

Each permit is to have a fixed term not to exceed 5 years. Renewal permits are subject to the same requirements as those applying to initial permits, including the requirement for a timely and complete application and for a compliance plan and processing by the Department within 18 months of a complete application.

Under the EPA rules, the Department proposes that the source be able to operate after expiration of the permit only if it has submitted a timely and complete application for a renewed permit, as mentioned in the previous discussion on complete applications. To maintain the protection afforded

by having a complete application, the applicant still must respond in a timely fashion upon written request by the Department to provide additional information needed to develop and issue the permit. Should a permit expire before an owner or operator submits a timely and complete application, the source's right to operate is terminated unless and until a Part 70 permit is issued by the Department [FCAA Section 503(d)]. The application is deemed to be complete 60 days from the date of its submission to the Department, unless the Department has already determined that the application is not complete. In addition, where the fixed term of a permit has expired, the permit would remain in effect until the permit is reissued (except as provided in regulations promulgated pursuant to Title IV for the acid rain portions of a permit).

The Department has proposed that permit renewal applications be submitted 12 months before permit expiration. The Department may request submittal of a renewal application up to 18 months before permit expiration if the renewal application will be especially difficult to process. Numerous off-permit changes or section 502(b)(10) changes during the life of the permit may make processing the renewal application difficult and may require the application to be submitted 18 months before expiration. If the Department requires a renewal application to be submitted earlier than 12 months before the expiration date, the owner or operator shall be given at least six (6) months to prepare the application.

7. Public Notice [OAR 340-28-2290]

The Department currently allows 30 days for the public notice period. A written request for hearing must be received by the Department within the first 14 days of the public notice period. Written comments can be submitted at any time during the notice period. These procedures are set forth in Division 14.

The environmental representatives on the Advisory Committee feel strongly that 14 days is not adequate to receive the public notice, request a copy of the permit, review the permit, and decide whether to request a public hearing. The current public notice procedures are used throughout the

Department and reflect changes made by the EQC as a result of public concern approximately two years ago.

The Department solicited comments during the public notice period on this topic. The Department received numerous comments that 14 days was not enough time to request a hearing for a permit. A few comments were received stating that the public notice procedures delayed the permitting process too much and should be deleted. Upon further investigation, the Department found other public notice procedures used throughout the Department that allow for more than 14 days to request a hearing. Based on the overwhelming public comments and current practice in other divisions, the Department shall allow for 30 days to request a public hearing on federal operating permits. Public notice procedures for sources that will remain in the Air Contaminant Discharge Permit program will allow the current 14 days to request a hearing. This period may change in the future if Division 14 is changed.

8. Contested Permits [OAR 340-28-2300]

Under proposed rule OAR 340-28-2300, permits become effective upon the date signed by the Air Quality Division Administrator unless challenged by the applicant. An applicant who wishes to challenge a permit condition must request a hearing before the Environmental Quality Commission or its hearings officer. The request must be in writing and must be made within 20 days after the date the permit is signed by the Air Quality Division Administrator. The petitioner must specify which permit terms are being challenged and state the legal or factual basis for each challenge. If the applicant desires, he or she may request a stay of the challenged permit terms.

Under the current rules, the permit does not go into effect if an owner or operator challenges the permit or any of its conditions and seeks the Commission's review. Title V permits, however, will be issued pursuant to the authority in ORS 468A.040(2), which requires the applicant to request a stay of the contested provisions if it seeks the Commission's review. An owner or operator requesting a stay of a permit term must meet two conditions. First, the petitioner must

demonstrate to the Commission or its hearings officer that he or she is likely to prevail on the merits of the appeal. Second, the petitioner must also prove that the failure to grant a stay would result in some type of serious and substantial hardship to his or her business. Even if the petitioner meets these criteria, the Commission can still deny the stay if granting it would endanger public health or safety. Under proposed OAR 340-28-2300, the Commission must rule on the request within 30 days and any conditions which were not challenged remain in effect during this period. The Department can enforce severable permit terms which are neither challenged nor stayed.

Since the public notice version of the proposed rules, OAR 340-28-2300 has been modified to also allow "adversely affected or aggrieved" third parties to intervene in the request for review by the Commission. The petition for intervention must be in writing and must specify the permit terms being challenged, as well as the legal and factual basis for the challenge. Third party intervenors may challenge any permit term, not only those being challenged by the permittee. Allowing such third party intervention will eliminate potentially repetitive judicial proceedings under the Oregon Administrative Procedure Act (APA) and is consistent with the Attorney General's model rules for contested cases, OAR 137-03-005 and current Department policy. The hearing must be conducted as a contested case proceeding under ORS Chapter 183 and OAR Chapter 340 Division 11. The right to judicial review remains unaffected.

F. General Permits [OAR 340-28-2170]

The Department proposes the use of general permits. A general permit is a single permitting document which can cover a category or class of many similar sources. Public participation and the EPA and affected state review would be provided by the Department before issuing a general permit [FCAA Section 504(d)], but not when the individual owners or operators subsequently submit requests for coverage and are evaluated for a permit reflecting the terms of the general permit. The permit issuance process for eligible sources can thus be greatly simplified, which substantially reduces the administrative burden on both owners or operators and the Department. The EPA rules allow the Department to

determine categories of sources for which general permits are appropriate and to prepare and issue general permits for those categories. A similar process is already utilized in the state water quality program (NPDES). The advisory committee and the Department recommend that general permits be applied to new sources subject to hazardous air pollutants rules, proposed in Division 32, which do not yet have applicable MACT standards.

The Department sought input on when and what sources should be allowed to obtain a general permit during the public notice period. Several commentators stated that general permits should not be allowed or should at least be confined to small nonhazardous air pollution sources or where no harm to human health is expected. The rule language has been clarified to state that general permit provisions shall not apply to new major hazardous air pollutant sources because the state is required to either apply a new source Maximum Achievable Control Technology (MACT) promulgated by EPA or develop a state MACT on a case-by-case basis.

G. Required Enforcement Authority

Part 70 requires that the agency administering the permit program have specific enforcement authority to address violations of program requirements by permitted sources. Oregon statutes contain all of the necessary authority. However, in some cases the legislature has delegated certain authority to the Commission and in some cases to the Department. ORS 468.100 provides for injunctive relief for program or permit violations, but it refers to the Commission and regional authorities, not the Department. Accordingly, the proposed rules [OAR 340-28-2320] contain provisions delegating this authority to the Department to clarify that the agency need not seek Commission approval for such actions.

Permitting authorities are required to have authority to seek and impose civil penalties and criminal fines as well as injunctive relief. OAR Chapter 340, Division 12 Civil Enforcement Rules apply to this program. As required by Congress, the Department has obtained adequate criminal enforcement authority from the 1993 Oregon legislature.

Additionally, during a future rulemaking the Department will propose amendments to Division 12 to include classifications of specific violations of the federal operating permit program rules.

H. Permit/SIP Relationship

The Oregon SIP remains the basis for demonstrating and ensuring attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). The permit program collects and implements the requirements contained in the SIP as applicable to the particular permittee. Since permits must incorporate emission limitations and other requirements of the SIP, all SIP provisions applicable to a particular source would be defined and collected into a single document. The applicable requirements in the permit would include any recent SIP changes, whether as a result of a state or local SIP revision or of a Federal Implementation Plan (FIP) action by the EPA, if such an action ever occurred.

To facilitate application of generic SIP provisions to individual sources, a revision to OAR 340-20-047 is proposed. It would apply in cases where a Commission adopted and the EPA approved SIP provision requires the Department to make case by case permit determinations as SIP revisions. For example, OAR 340-22-104 requires the Department to make source-specific determinations of Reasonably Available Control Technology for certain large sources. These individual determinations, which would be issued as permit conditions, are federally required to be incorporated into the SIP. The new provision allows the Department to submit the permit changes to the EPA as a SIP modification after public notice requirements are met. This provision does not apply to modifications which require less stringent control than the SIP.

I. Construction Permitting/Title V Relationship

The Title V permit program is specifically an operating permit program. Other programs in the Clean Air Act and in the Oregon SIP regulate the construction of new or modified air pollution sources. Under Title III of the 1990 Amendments, states must also have a construction mechanism to establish prior to construction Maximum Achievable Control Technology (MACT) for new and modified sources of hazardous air pollutants. The EPA provides states with the option to integrate requirements of preconstruction review with the requirements of Title V. The overlap between the construction phases and operation of a facility is addressed in these proposed rules.

The Department currently allows new construction at a facility to take place under three avenues: Notice of Construction and Approval of Plans (NC) [OAR 340-28-800 through 820]; Air Contaminant Discharge Permits (ACDP) [OAR 340-28-1700 through 1790]; and New Source Review [OAR 340-28-1900 through 2000]. The Notice of Construction allows owners or operators to construct when there are no increases in emissions over the PSEL. The ACDP allows owners or operators to construct where increases are less than the significant emission rate (SER) triggering New Source Review/Prevention of Significant Deterioration (NSR/PSD). The NC review process and the ACDP review process for increases less than the SER are referred to by the EPA as "minor new source review." Federal regulations governing minor new source review are found in Section 110(a)(2)(C) of the FCAA and 40 CFR 51.160 through 51.164. New Source Review, which is also implemented through ACDPs, is used for major modifications which includes new construction.

Since the Department currently has the opportunity to review all new construction before a owner or operator is allowed to begin construction, it would be an unapprovable SIP relaxation to allow an owner or operator to construct an emissions unit without prior approval. The Department proposed that new construction be reviewed under the current regulations and be incorporated into the federal operating permit in a second step in the public notice version of the rules. The Department realized that this two step process may be burdensome and solicited comments from industry and the public on methods to make the process more efficient.

Under the current permitting program, any new source which would emit more than 10 tons per year of a pollutant must obtain an Air Contaminant Discharge Permit (ACDP) prior to construction of the source. Permitted sources must also receive permit approval prior to construction of any modification that increases emissions from the facility. New sources and modifications may also be subject to Clean Air Act Title I requirements for New Source Review (NSR) and Prevention of Significant Deterioration (PSD). The current Oregon permitting program combines these delegated federal requirements for preconstruction review and the state requirements for a permit to construct and to operate an air pollution source into a single ACDP. External review requirements consist of a 30-day public notice period and opportunity for public hearings for any new source or source increasing

emissions. This review does not meet the procedural requirements for review by the EPA and affected states in Section 70.8 of the federal regulations.

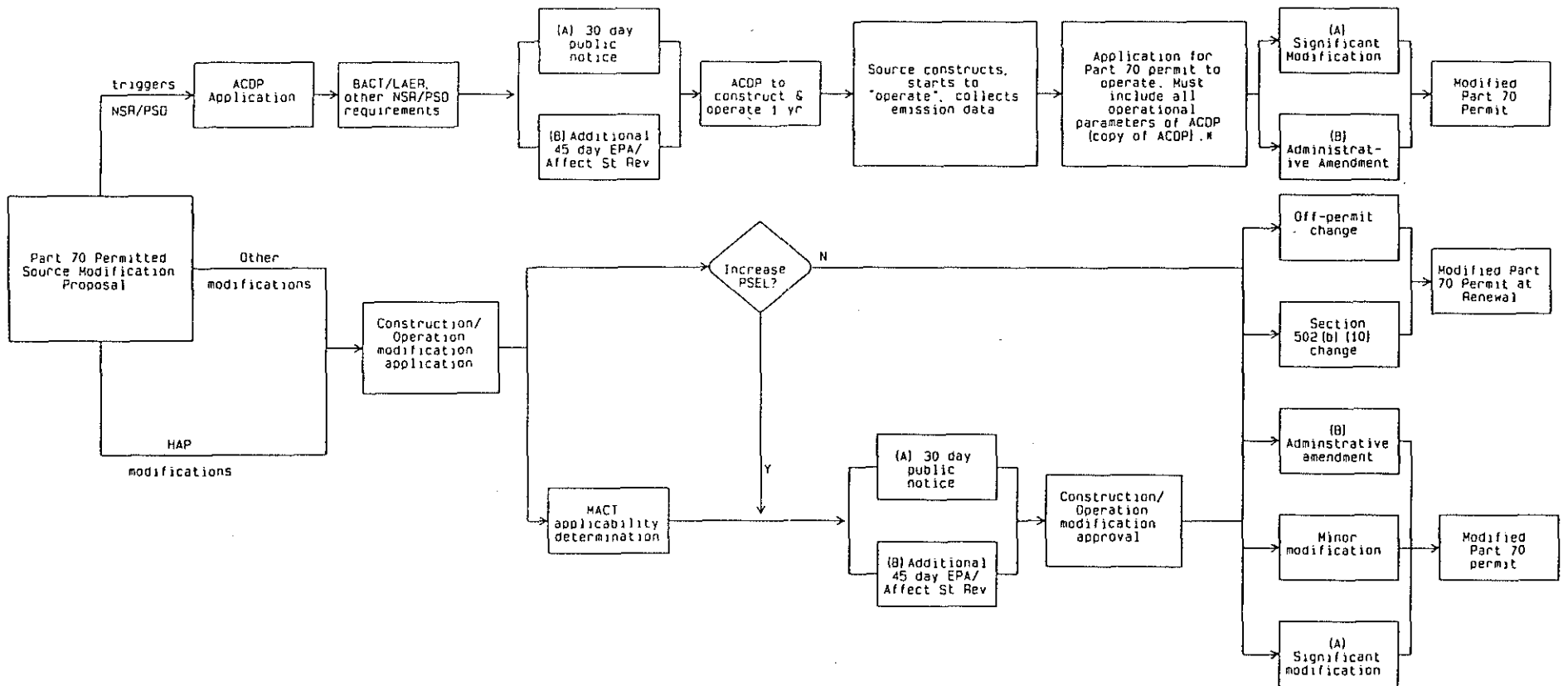
The proposed permit program must provide for issuance of operating permits to major sources constructed after adoption of the program. The Department is proposing to require those owners or operators to submit an application for preconstruction review under the Air Contaminant Discharge Permit program. The sources would then be required to apply for a federal operating permit within twelve months of commencement of operation, which is considered to be initial startup.

Comments received from environmental groups requested that the construction and operation processes be kept separate in a two step process. Industry representatives requested incorporation of construction into the federal operating permit program. Based on the comments received, the Department proposes to modify the public version of the rules to accommodate concerns from both environmental groups and industry. The Department shall exempt owners or operators of federal operating permit program sources from NC requirements and ACDP requirements (except for NSR/PSD) by incorporating similar rule language in the federal operating permit program rules. Incorporation of review procedures in the federal operating permit program that are similar to existing minor new source review procedures shall ensure that there is not a SIP relaxation. In addition, owners or operators with federal operating permits will only have to look in one area of the rules for the requirements of all types of permit modifications (except for NSR/PSD). Incorporation of the construction or modification will take place in two steps, but operational flexibility may be used if applicable.

Under the proposed rules, the requirements for obtaining approval prior to construction are retained. These rules would apply to construction of any new source or modification to which Title I preconstruction approval requirements apply (NSPS, MACT). The Title I modifications that involve NSR/PSD must still obtain an ACDP prior to construction. Owners or operators which submit operating permit applications as required within twelve months of the start of operations would be authorized to operate under the provisions of their construction approval or permit until final action is taken by the Department on the operating permit application.

Sources which are being modified and which already have a Title V permit would utilize the construction/operation modification rule notice and comment provisions for the construction permit and later utilize whichever avenue of operational flexibility or permit modification that would apply for incorporation of the changes into the operating permit (see attached flowchart). Alternatively, the owner or operator would be able to request that the Title V notice and comment procedures be followed during the construction permit phase. With this option, the modification could be incorporated into the operating permit as an administrative amendment. However, the initial application and the construction permit would have to contain all of the necessary information and details of Title V. The public notice would indicate that the owner or operator had elected the combined procedure. No substantive differences could be allowed between the modification as permitted during the construction review and as it would have to be permitted after operational. Any difference in construction or operation that would qualify as a significant modification under the proposed rules would prevent incorporation of the construction approval or permit into the operating permit as an administrative amendment. The significant modification procedures would need to be followed before issuing the Title V operating permit, which would include an additional public notice period. This optional review process would not be available to new sources, since they would not have the prior Title V permit to which an administrative amendment could be made.

Federal Operating Permit Modification



* If source start-up problems prevent timely data collection, application must include compliance schedule to obtain & submit info.

The Department has chosen to include the construction/operation modification rule in the federal operating permit program rules rather than use an external review process (NC and ACDP) for the following reasons:

- Time needed to obtain approval to construct is equivalent under the construction/operation modification approval approach but clarity should be provided since federal operating permit program sources would not be required to go outside the program to obtain construction approval. The applicant could then obtain a modified federal operating permit through whichever avenue was appropriate: off-permit change, section 502(b)(10) change, administrative amendment, minor permit modification, or significant permit modification.
- The risk to the applicant of constructing without a Title V permit does not appear to be significantly greater than under the current system or a system that combined the construction and Title V operating permits. The permittee has a basic responsibility to construct any facility to meet all applicable requirements and demonstrate compliance. Those requirements do not change because the permitting process occurs in two stages. The construction permitting decisions made in the ACDP permit for New Source Review/Prevention of Significant Deterioration (e.g., MACT/BACT/LAER, pre- or post-construction ambient monitoring requirements) or the Notice of Approval under the construction/operation modification rule defines certain applicable SIP requirements for the Title V source. In the subsequent operating permit review, these applicable requirements must be put in the operating permit but, since they have already been established as applicable requirements, are not subject to reevaluation. The initial ACDP or Notice of Approval would be in effect until the Department took final action on an operating permit application, or until an applicant failed to comply with Title V application requirements.
- Combining the review processes is not likely to make more efficient use of agency resources. A combined permit would last for 5 years before renewal, require additional initial work to ensure all Title V permitting requirements are included

in the permit and review, and require additional initial work to conduct the expanded external review. It is likely that most such permits would also require a permit modification during the five year term to incorporate changes in the facility design, operation, or compliance demonstration. On the other hand, a separate construction permit or approval could last for five years but would more likely last from 2 to 4 years depending on how quickly construction was conducted; would reduce external review requirements other than public review; and would be less likely to require modification prior to the preparation of the operating permit. If the facility was not constructed, no extra effort would have been expended to meet the Title V requirements.

- The Department is required to have reasonable procedures and resources to assign priority to action on permits for new construction or modification [FCAA Section 503(c)]. The proposed rules will accomplish this by providing a simpler process of issuing construction approval.

The Department received many comments during the public notice period regarding the definitions of "major modification" and "significant emission rate." Commentors stated that not exempting hazardous air pollutants from these definitions would make sources subject to New Source Review (NSR) for hazardous air pollutants. The Department currently has authority to set significant emission rates for any air pollutant regulated under the FCAA and has not expanded the scope of NSR by not exempting hazardous air pollutants. Currently, there are significant emission rates set for mercury, beryllium, asbestos, and vinyl chloride. The Department intends to reevaluate the need for these SERs after Maximum Achievable Control Technology (MACT) is established for sources of each hazardous air pollutant. In the interim, the Department will maintain the authority to regulate hazardous air pollutants under the NSR program.

J. Relationship with FCAA Section 112 (Air Toxics)

As required by the EPA, the operating permit program will implement standards issued under Section 112 as it existed prior to the Clean Air Act, as well as future standards to be promulgated under Section 112 as it was revised by the Clean Air Act. As a result of this requirement, the Department has established a new

Division 32 for the emission standards and requirements relating to hazardous air pollutants. A complete discussion of the rules contained in Division 32 can be found at the end of this discussion document.

K. Relationship with Title IV (Acid Rain)

Title IV mandates implementation of an acid rain control program to be carried out through operating permits issued under Title V as modified by Title IV. The acid rain permits regulations are expected to cover a wide range of topics, including:

- Acid rain specific requirements for permits and compliance plans (emissions limits, deadlines, monitoring);
- Additions to state Part 70 program approval criteria specific to the acid rain program;
- Requirements for alternative compliance methods (e.g., phase I extensions, reduced utilization, substitution units, energy conservation, phase II repowering, etc.);
- Compliance certification reporting requirements;
- Requirements for designated representatives.

In addition, acid rain emissions monitoring requirements, and excess emissions offset planning and penalty requirements, must be specified in the permit. Since state programs are barred from changing Title IV requirements, the Department proposes to adopt the applicable federal regulations by reference.

The general relationship between Titles IV and V is governed by three important provisions of the Clean Air Act. FCAA Sections 506(b) and 408(a) state that the requirements of a Title V program will apply to the permitting of affected sources under the acid rain program, except as modified by Title IV. In addition, as provided in FCAA Section 403(f), compliance with the acid rain program requirements will not exempt or excuse the owner or operator of any source subject to those requirements from compliance with any other applicable requirements of the Clean Air Act (e.g., SIP, PSD/NSR, NSPS).

Permits will be issued to affected sources under the acid rain program in two phases. Phase I is not

applicable in Oregon under the Clean Air Act. Phase II permits will be issued by states with approved Title V programs beginning in 1997. This phase currently applies to only one source in Oregon (Portland General Electric - Boardman). Other sources that have emissions to trade may opt into Title IV program. Phase II NO_x applications are due on January 1, 1998. The Department will have to reopen the previously-issued phase II SO₂ permit before January 1, 2000, to add those limits to the permit. This reopening is provided for in these rules. Permits issued to acid rain affected sources, will have an effective permit term of 5 years.

L. Relationship with Division 14

As with other federal permit programs, the federal Clean Air Act contains specific procedures. Therefore, the Department proposes to exempt the federal operating permit program from the Department specific procedures in Division 14.

M. Excess Emissions Rule and Emergency Provision

Title V's Emergency Provision provides owners or operators with an affirmative defense to an enforcement action when "sudden and reasonably unforeseeable events beyond the control of the source" cause the exceedance of a technology-based emissions limit. An emergency does not include noncompliance caused by "improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error." This provision does not apply when a source exceeds health-based standards such as NAAQS or SIP-based standards such as Plant Site Emission Limits.

Oregon's current Excess Emissions Rule, which is now part of the SIP, outlines notification and reporting requirements which permitted sources (except minimal sources) must follow when they exceed applicable emission limits. It also establishes criteria to be used by the Department in determining whether a specific excess emissions event was avoidable and, therefore, subject to enforcement action. The primary goal of the rule is to minimize periods of noncompliance by improving the tracking of excess emission events and requiring the permittee to demonstrate unavailability.

The Excess Emissions Rule indirectly encompasses some aspects of the Title V Emergency Provision, but it is much broader as it applies to all sources and to all categories of excess emissions events. In contrast, the federal provision applies only to technology-based limits for Title V sources. The state rule currently provides no affirmative defense for the class of excess emissions events addressed under the Emergency Provision.

1. Proposed Modifications

In order to fully meet the intent of Title V, the Department proposes to incorporate the federal Emergency Provision into the existing Excess Emissions Rule. The revised rule broadens the scope of the Emergency Provision to make the affirmative defense available to non-Title V sources, as well. This promotes equity and helps to streamline the state rules.

Since the Excess Emissions Rule needs to be modified to incorporate these Title V related changes, the Department deemed it appropriate to simultaneously make other modifications which would improve the rule's overall effectiveness. These changes were agreed upon in a recent effort to resolve rule issues involving regional inspectors and industry representatives. The primary modifications proposed affect reporting requirements and the submittal of procedures to minimize emissions during planned startup and shutdown and scheduled maintenance.

2. Discussion of Rule Modifications

a. Purpose and Applicability

OAR 340-20-350 (renumbered to OAR 340-28-1400) outlines the general intent of the Excess Emissions Rule. An additional section has been added to describe the affirmative defense to enforcement available under the Emergency Provision and its scope of applicability.

b. Planned Startup and Shutdown

OAR 340-20-360 (renumbered to OAR 340-28-1410) requires owners or operators to submit procedures to minimize emissions during planned startups and shutdowns which will

likely result in excess emissions. This rule has been modified to specify that once planned startup and shutdown procedures are approved, they need not be resubmitted except when modifications are necessary. In addition, the revised rule does not require owners or operators to provide advance notification to the Department of a planned startup or shutdown unless it is specified in a permit condition or the source is located in a nonattainment area for a pollutant which may be emitted in excess of the applicable limits. If required, such notification may be made as soon as possible prior to the event in contrast with the current rule language which requires 72 hour advance notification.

c. Scheduled Maintenance

OAR 340-20-365 (renumbered to 340-28-1420) requires owners or operators to submit procedures to minimize emissions during scheduled maintenance events which will likely result in excess emissions. This rule now specifies that once procedures are approved, they need not be resubmitted except when modifications are necessary or when new procedures are required for another type of scheduled maintenance activity. The revised rule does not require owners or operators to provide advance notification to the Department of a scheduled maintenance event unless it is specified in a permit condition or the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable limits. If required, such notification may be made as soon as possible prior to the event in contrast with the current rule language which requires 72 hour advance notification.

d. Upsets and Breakdowns

OAR 340-20-370 (renumbered to OAR 340-28-1430) requires owners or operators of A1 sources and potential high risk A2 sources to report excess emissions to the Department immediately. In addition, it includes language specifying that owners or operators shall cease operation if an on-going excess emission is endangering the public, would

significantly impact air quality, or would continue longer than 48 hours.

This rule has been modified to require owners or operators to notify the Department immediately of any emergency condition causing the excess emissions. The revised rule also includes a reference to the Emergency Provision to specify requirements which the source operator or owner must meet in order to be entitled to an affirmative defense to enforcement. Another modification adds flexibility to the immediate reporting requirement to allow the Department to establish source-specific reporting requirements. This option may help address the issue of source operators or owners who are not readily aware of the occurrence of an excess emissions event until daily, weekly, or monthly emissions have been calculated.

e. Reporting Requirements

OAR 340-20-375 (renumbered to 340-28-1440) outlines general reporting requirements and the contents to be included in excess emissions reports. This rule has been modified to require the annual submittal (sooner if required by the Department) of current procedures for minimizing excess emissions during planned startup, shutdown and scheduled maintenance events.

The revised rule includes a provision from OAR 340-20-380 (renumbered to OAR 340-28-1450) requiring the source to identify whether the excess emissions event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction.

The rule was also modified to include the federal requirement that owners or operators keep upset logs for five calendar years. Formerly, owners or operators were required to maintain such logs for two calendar years. For clarity, this time specification was moved from section (4) of the rule to section (3).

f. Enforcement Action Criteria

OAR 340-20-380 (renumbered to OAR 340-28-

1450) establishes criteria which the Department shall consider in determining if an excess emissions event is avoidable and whether enforcement action is warranted. The revised rule includes an additional criterion requiring, where applicable, that owners or operators demonstrate that an emergency caused an exceedance of a technology-based emissions limit.

Criteria in the federal Emergency Provision for establishing an affirmative defense have been integrated into the existing Enforcement Action Criteria. The revised rule now requires owners or operators to: a) notify the Department immediately of an emergency, where applicable; b) submit a description of any emergency which may have caused emissions in excess of technology-based limits, where applicable; c) describe steps taken to resolve the excess emissions event; and d) provide evidence that all reasonable steps to minimize excess emissions were taken.

g. Federal Emergency Provision

OAR 340-28-1460 is a new rule which outlines the federal Emergency Provision. It describes the effect of an emergency and specifies that owners or operators may be entitled to an affirmative defense if they meet criteria specified in OAR 340-28-1450.

3. Rule Issues

In developing these rule modifications, the Department held several meetings involving regional inspectors and industry representatives. One key concern raised in these sessions was the lack of a clear definition for "technology-based emissions limit" in the federal Emergency Provision language. The EPA has informed the Department and industry that this definition includes NSPS, MACT, and applications of BACT, LAER, and RACT which are not specifically intended to promote compliance with health-based standards. In the future, bifurcation of state permits may make such a distinction between technology-based and health-based emissions limits. However, even with this distinction, a clear definition is needed to avoid misinterpretation.

A recent letter to the Department on behalf of Associated Oregon Industries (AOI) expressed that it may not be necessary to resolve this issue immediately since "what limits are and are not 'technology-based' could be resolved in the future through formal guidance from EPA or through enforcement actions in which the defense is raised." Acknowledging this industry position, the Department has included the terminology "technology-based emissions limit" in the Excess Emissions Rule modifications and will work further on developing a refined definition.

III. Hazardous Air Pollutant Rules

A. Background and Purpose

OAR Division 32 implements the hazardous air pollutant requirements described in Section 112 of the Clean Air Act. These hazardous air pollutants (HAP) include carcinogens, mutagens and reproductive toxins, released into the air by major and area sources. As proposed, Division 32 will implement the provisions of Section 112 of the Clean Air Act, also referred to as Title III of the Clean Air Act Amendments of 1990, through the regulation of major stationary industrial sources emitting any of the 189 listed toxic chemicals or compounds. In addition, these regulations incorporate provisions for Accidental Release Prevention described under Section 112(r) of the Clean Air Act.

Section 112 of the 1977 Clean Air Act authorized the United States Environmental Protection Agency (EPA) to establish NESHAPS, or National Emission Standards for Hazardous Air Pollutants. Standards have to date been established for only seven pollutants; mercury, asbestos, beryllium, vinyl chloride, coke oven emissions, benzene, and radionuclides.

B. Existing Air Quality Regulatory Approaches

There are four basic regulatory approaches for the control of air toxics, which are 1) establishment of ambient guidelines, 2) establishment of ambient standards, 3) utilization of risk assessment, and 4) installation of emission control technology .

1. Ambient Guidelines

Ambient guidelines are generally based on compound specific allowable ambient levels. The ambient guidelines are

generally derived from workplace Threshold Limit Values (TLV) established by the American Conference of Governmental Industrial Hygienists (ACGIH), the Occupational Safety and Health Administration (OSHA), and the National Institute of Occupational Safety and Health (NIOSH) using a variety of additional conservative safety factors.

2. Ambient Standards

Ambient standards are primarily based on TLVs, adjusted for individual sensitivity and different averaging times. An industrial point source is usually required to demonstrate compliance for various averaging times.

3. Risk Assessment

Risk assessment is the application of data and methodologies derived from epidemiological and animal studies to the potential lifetime risk of contracting cancer with a unit exposure of a particular chemical. If the chemical is considered to have carcinogenic effects, an individual's risk is derived by multiplying the expected long term average concentration of the chemical in question by the particular "unit risk" associated with that chemical or compound. The utilized levels of risk existing in different regulatory programs range from 1 in 100,000 to 1 in 1,000,000.

4. Control Technology

In response to either the character or magnitude of the air toxic emission, various engineering air pollution control devices and work practices are frequently chosen to control, or limit the emission. Representative examples of this technology include catalytic oxidation, frequently chosen for high efficiency thermal destruction of organic emissions, and activated carbon absorbers, frequently indicated for physical capture of organic air-borne contaminants.

C. Existing Oregon DEQ Interim Air Toxic Policy

Since 1988, DEQ has utilized a policy of significant emission rates (SERs), a refined ambient guideline approach, to characterize both hazardous air emissions from industrial point sources and the calculated rates at which these pollutants are believed to be deleterious to human health. This policy was developed by the Air Quality Division and is informal as it has not gone through the rule making process.

D. Proposed Air Toxic Regulation

Consistent with the requirements of Section 112 of the Clean Air Act Amendments of 1990, Division 32 will require maximum achievable control technology (MACT) standards at individual industrial source categories, according to the prescribed schedules discussed below. These regulations will specifically control the emission of 189 identified toxic chemicals, listed in Division 32 at major industrial sources. A major source is one that has the potential to emit 10 tons per year of any one HAP or 25 tons per year or more of any combination of HAP.

Cumulative expected air toxic emission reductions are expected to exceed 75% nationally within 10 years of implementation. Additionally, it is expected that as tighter control is imposed at the industrial sources, the air quality benefits will extend beyond the list of 189 identified hazardous air pollutants, to other non-listed chemicals associated with the particular industrial source category.

1. MACT

Maximum available control technology (MACT), is designed to require the maximum achievable degree of reduction in hazardous air pollutant emissions from major stationary sources with consideration of the economic, environmental, and energy impacts of the control strategy. MACT standards may include a wide range of control strategies to achieve the maximum degree of control, including process changes, material substitutions, pollution control equipment, work practice changes, pollution prevention techniques or improved operator training.

MACT standards for new industrial sources of hazardous air pollutants will be based on the control strategies mentioned above and must be at least as stringent as the level of control that is achieved in practice by the best controlled similar source. MACT standards for existing sources will also be based on control strategies and must be at least as stringent as the average level of control achieved by the best performing 12% of the sources in the same category.

In addition to the scheduled promulgation of federal MACT standards, the rules provide for case-by-case state MACT determinations for new or modified industrial sources of hazardous air pollutants. This would be done when no federal MACT standard was available, or if EPA fails to adopt a MACT standard according to the prescribed schedule.

After EPA promulgates a MACT standard, Oregon industrial sources in the affected source category must achieve compliance with the standard within the specified compliance period. For existing sources, the rules provide for an authorized one (1) year extension if approved by the Department.

2. Early Reductions

These regulations provide incentives, consistent with Section 112 of the Clean Air Act Amendments of 1990, for industrial sources to reduce emissions of air toxics before EPA's proposal of the MACT standard for the particular source category. An existing industrial source may obtain a six-year MACT compliance extension with an alternative emissions limit if it achieves a 90% reduction in gaseous hazardous air pollutant emissions or a 95% reduction in particulate hazardous air pollutant emissions before EPA proposes an applicable MACT standard.

3. Schedule for the Development of Standards

Section 112(e) of the CAA, requires EPA to develop a list of source categories to be regulated and publish the schedule for the promulgation of MACT standards for listed source categories. EPA has published the following list of source categories and associated dates for MACT promulgation. This list is subject to change.

<u>SOURCE CATEGORY</u> ^a	<u>PROMULGATION DATE</u>
<u>FUEL COMBUSTION</u>	
Engine Test Facilities	11/15/00
Industrial Boilers ^b	11/15/00
Institutional/Commercial Boilers ^b	11/15/00
Process Heaters	11/15/00
Stationary Internal Combustion Engines ^b	11/15/97
Stationary Turbines ^b	11/15/97
<u>NON-FERROUS METALS PROCESSING</u>	
Primary Aluminum Production	11/15/97
Secondary Aluminum Production	11/15/97
Primary Copper Smelting	11/15/97
Primary Lead Smelting	11/15/97
Secondary Lead Smelting	11/15/94
Lead Acid Battery Manufacturing	11/15/00
Primary Magnesium Refining	11/15/00
<u>FERROUS METALS PROCESSING</u>	

Coke By-Product Plants	11/15/00
Coke Ovens:Charging,Top Side,Door Leak	12/31/92
Coke Ovens:Pushing, Quenching, and Battery Stacks	11/15/00
Ferroalloys Production	11/15/97
Integrated Iron and Steel Manufacturing	11/15/97
Non-Stainless Steel Manufacturing - Electric Arc Furnace (EAF) Operation	11/15/97
Stainless Steel Manufacturing - Electric Arc Furnace (EAF) Operation	11/15/97
Iron Foundries	11/15/97
Steel Foundries	11/15/97
Steel Pickling - Hcl Process	11/15/97
<u>MINERAL PRODUCTS PROCESSING</u>	
Alumina Processing	11/15/00
Asphalt/Coal Tar Application - Metal Pipes	11/15/00
Asphalt Concrete Manufacturing	11/15/00
Asphalt Processing	11/15/00
Asphalt Roofing Manufacturing	11/15/00
Chromium Refractories Production	11/15/97
Clay Products Manufacturing	11/15/00
Lime Manufacturing	11/15/00
Mineral Wool Production	11/15/97
Portland Cement Manufacturing	11/15/97
Taconite Iron Ore Processing	11/15/00
Wool Fiberglass Manufacturing	11/15/97
<u>PETROLEUM AND NATURAL GAS PRODUCTION AND REFINING</u>	
Oil and Natural Gas Production	11/15/97
Petroleum Refineries - Catalytic Cracking (Fluid and other) Units, Catalytic Reforming Units, and Sulfur Plant Units	11/15/97
Petroleum Refineries - Other Sources Not Distinctly Listed	11/15/94
<u>LIQUIDS DISTRIBUTION</u>	
Gasoline Distribution (Stage 1)	11/15/94
Organic Liquids Distr. (Non-Gasoline)	11/15/00
<u>SURFACE COATING PROCESSES</u>	
Aerospace Industries	11/15/94
Auto & Light Duty Truck (Surface Coating)	11/15/97
Flat Wood Paneling (Surface Coating)	11/15/00
Large Appliance (Surface Coating)	11/15/00
Magnetic Tapes (Surface Coating)	11/15/94
Manuf. of Paints, Coatings, Adhesives	11/15/00
Metal Can (Surface Coating)	11/15/00

Metal Coil (Surface Coating)	11/15/00
Metal Furniture (Surface Coating)	11/15/00
Miscellaneous Metal Parts and Products (Surface Coating)	11/15/00
Paper and Other Webs (Surface Coating)	11/15/97
Plastic Parts & Products (Surface Coating)	11/15/00
Printing, Coating, and Dyeing of Fabrics	11/15/00
Printing/Publishing (Surface Coating)	11/15/94
Shipbldg. & Ship Repair (Surface Coating)	11/15/94
Wood Furniture (Surface Coating)	11/15/94
<u>WASTE TREATMENT AND DISPOSAL</u>	
Hazardous Waste Incineration	11/15/00
Municipal Landfills	11/15/97
Publicly Owned Treatment Works (POTW)	11/15/95
Sewage Sludge Incineration	11/15/97
Site Remediation	11/15/00
Solid Waste Treatment, Storage and Disposal Facilities (TSDF)	11/15/94
<u>AGRICULTURAL CHEMICALS PRODUCTION</u>	
2,4-D Salts and Esters Production	11/15/00
4-Chloro-2-Methylphenoxyacetic Acid Prod.	11/15/00
4,6-Dinitro-o-Cresol Production	11/15/00
Captafol Production ^d	11/15/00
Captan Production ^d	11/15/00
Chloroneb Production	11/15/97
Chlorothalonil Production ^d	11/15/00
Dacthal (tm) Production ^d	11/15/00
Sodium Pentachlorophenate Production	11/15/00
Tordon (tm) Acid Production ^d	11/15/00
<u>FIBERS PRODUCTION PROCESSES</u>	
Acrylic Fibers/Modacrylic Fibers Prod.	11/15/97
Rayon Production	11/15/97
Spandex Production	11/15/00
<u>FOOD AND AGRICULTURE PROCESSES</u>	
Baker's Yeast Manufacturing	11/15/00
Cellulose Food Casing Manufacturing	11/15/00
Vegetable Oil Production	11/15/00
<u>PHARMACEUTICAL PRODUCTION PROCESSES</u>	
Pharmaceuticals Production ^d	11/15/97
<u>POLYMERS AND RESINS PRODUCTION</u>	
Acetal Resins Production	11/15/97
Acrylonitrile-Butadiene-Styrene Production	11/15/94
Alkyd Resins Production	11/15/00
Amino Resins Production	11/15/97
Boat Manufacturing	11/15/00

Butadiene-Furfural Cotrimer (R-11) d	11/15/00
Butyl Rubber Production	11/15/94
Carboxymethylcellulose Production	11/15/97
Cellophane Production	11/15/97
Cellulose Ethers Production	11/15/00
Epichlorohydrin Elastomers Production	11/15/94
Epoxy Resins Production	11/15/94
Ethylene-Propylene Rubber Production	11/15/94
Flexible Polyurethane Foam Production	11/15/97
Hypalon (tm) Production d	11/15/94
Maleic Anhydride Copolymers Production	11/15/00
Methylcellulose Production	11/15/00
Methyl Methacrylate-Acrylonitrile-Butadiene- Styrene Production d	11/15/94
Methyl Methacrylate-Butadiene-Styrene Terpolymers Production d	11/15/94
Neoprene Production	11/15/94
Nitrile Butadiene Rubber Production	11/15/94
Non-Nylon Polyamides Production	11/15/94
Nylon 6 Production	11/15/97
Phenolic Resins Production	11/15/97
Polybutadiene Rubber Production d	11/15/94
Polycarbonates Production d	11/15/97
Polyester Resins Production	11/15/97
Polyethylene Terephthalate Production	11/15/94
Polymerized Vinylidene Chloride Production	11/15/00
Polymethyl Methacrylate Resins Production	11/15/97
Polystyrene Production	11/15/94
Polysulfide Rubber Production d	11/15/94
Polyvinyl Acetate Emulsions Production	11/15/97
Polyvinyl Alcohol Production	11/15/97
Polyvinyl Butyral Production	11/15/97
Polyvinyl Chloride & Copolymers Production	11/15/00
Reinforced Plastic Composites Production	11/15/97
Styrene-Acrylonitrile Production	11/15/94
Styrene-Butadiene Rubber & Latex Production d	11/15/94
<u>PRODUCTION OF INORGANIC CHEMICALS</u>	
Ammonium Sulfate Production - Caprolactam By-Product Plants	11/15/00
Antimony Oxides Manufacturing	11/15/00
Chlorine Production d	11/15/97
Chromium Chemicals Manufacturing	11/15/97
Cyanuric Chloride Production	11/15/97
Fume Silica Production	11/15/00
Hydrochloric Acid Production	11/15/97

Hydrogen Cyanide Production	11/15/97
Hydrogen Fluoride Production	11/15/97
Phosphate Fertilizers Production	11/15/97
Phosphoric Acid Manufacturing	11/15/97
Quaternary Ammonium Compounds Prod.	11/15/00
Sodium Cyanide Production	11/15/97
Uranium Hexafluoride Production	11/15/00
<u>PRODUCTION OF ORGANIC CHEMICALS</u>	
Synthetic Organic Chemical Manufacturing	11/15/92
<u>MISCELLANEOUS PROCESSES</u>	
Aerosol Can-Filling Facilities	11/15/97
Benzyltrimethylammonium Chloride Prod.	11/15/97
Butadiene Dimers Production	11/15/97
Carbonyl Sulfide Production	11/15/00
Chelating Agents Production	11/15/97
Chlorinated Paraffins Production d	11/15/00
Chromic Acid Anodizing	11/15/94
Commercial Dry Cleaning (Perchloroethylene)	
- Transfer Machines	11/15/92
Commercial Sterilization Facilities	11/15/94
Decorative Chromium Electroplating	11/15/94
Dodecanedioic Acid Production d	11/15/00
Dry Cleaners (Petroleum Solvent)	11/15/00
Ethylidene Norbornene Production d	11/15/00
Explosives Production	11/15/00
Halogenated Solvent Cleaners	11/15/94
Hard Chromium Electroplating	11/15/94
Hydrazine Production	11/15/97
Industrial Cleaning (Perchloroethylene)	
- Dry-to-dry machines	11/15/92
Industrial Dry Cleaning (Perchloroethylene)	
- Transfer Machines	11/15/92
Industrial Process Cooling Towers	11/15/94
OBPA/1,3-Diisocyanate Production d	11/15/00
Paint Stripper Users	11/15/00
Photographic Chemicals Production	11/15/97
Phthalate Plasticizers Production	11/15/00
Plywood/Particle Board Manufacturing	11/15/00
Polyether Polyols Production	11/15/97
Pulp and Paper Production	11/15/97
Rocket Engine Test Firing	11/15/00
Rubber Chemicals Manufacturing	11/15/97
Semiconductor Manufacturing	11/15/97
Symmetrical Tetrachloropyridine Prod. d	11/15/00
Tire Production	11/15/00

Wood Treatment	11/15/97
<u>CATEGORIES OF AREA SOURCES</u> ^c	
Asbestos Processing	11/15/94
Chromic Acid Anodizing	11/15/94
Commercial Dry Cleaning (Perchloroethylene)	
- Transfer Machines	11/15/92
Commercial Dry Cleaning (Perchloroethylene)	
- Dry-to-Dry Machines	11/15/92
Commercial Sterilization Facilities	11/15/94
Decorative Chromium Electroplating	11/15/94
Halogenated Solvent Cleaners	11/15/94
Hard Chromium Electroplating	11/15/94

^a Only major sources within any category shall be subject to emission standards under Section 112 unless a finding is made of a threat of adverse effects to human health or the environment for the area sources in a category. All listed categories are exclusive of any specific operations or processes included under other categories that are listed separately.

^b Sources defined as electric utility steam generating units under Section 112(a)(8) shall not be subject to emission standards pending the findings of the study required under Section 112(a)(1).

^c A finding of threat of adverse effects to human health or the environment was made for each category of area sources listed above.

^d The MACT standard for HON (Hazardous Organic NESHAP) includes a negotiated standard for equipment leaks from the SOCM (Synthetic Organic Chemical Manufacturing Industry) category and 20 non-SOCM categories (or subsets of these categories). The notice of agreement on negotiated regulation for equipment leaks (56 FR 9315; March 6, 1991) would apply to equipment handling specific chemicals for these categories or subsets of these categories.

The particular source categories were chosen after consideration of the following criteria; the known or anticipated adverse effect of HAP on public health and the environment, the quantity and location of emissions or reasonably anticipated emissions of HAP that a listed category would emit, and the efficiency of grouping categories according to the pollutants emitted or the processes or control technologies used.

4. Additional Categories and Subcategories

By November 15, 1995, EPA must list categories and subcategories of sources that emit one of seven specific pollutants (alkylated lead compounds, POM, hexachlorobenzene, mercury, polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzofurans, and 2,3,7,8-tetrachlorodibenzo-p-dioxin, so as to ensure that sources which account for at least 90% of the cumulative emissions of each of these listed pollutants are subject to emission standards by November 15, 2000.

5. Area Sources

Sources with less than ten (10) tons annually of any single potential HAP emission, or less than twenty five (25) tons

annually of a combined potential HAP emission, are referred to as area sources. These sources are typified by dry cleaners and decorative chrome platers.

EPA however, is required to develop a national strategy, based on ambient monitoring information, to reduce emissions from these sources in urban areas within five (5) years of the date of enactment of the Clean Air Act Amendments of 1990. The strategy must provide that 90% of the emissions of the thirty hazardous air pollutants identified as posing the greatest threat to public health in urban areas are subject to regulation. These regulations must be promulgated not later than ten (10) years after the date of enactment of the Clean Air Act Amendments of 1990. Consistent with these future schedules, and consistent with the philosophy of initially focusing on the major sources of hazardous air pollutants, Oregon proposes to defer the permitting of area sources.

6. Accidental Release Provisions

The accidental release provisions of Division 32 implement the requirements of Section 112(r) of the Clean Air Act Amendments of 1990. These regulations establish requirements for those industrial sources which produce, handle, or store any of the toxic or flammable substances listed in Division 32. These requirements are designed to prevent the accidental release of any of the designated chemicals and to minimize the environmental and human health consequences of such releases. These regulations will apply to Oregon industrial sources processing, handling, or storing more than the threshold quantities of each listed chemical substance.

Oregon industrial sources subject to these regulations will be required to formulate and submit to the Department and EPA Region 10, a Risk Management Plan (RMP) incorporating particular elements of hazard assessment, chemical accident prevention, and emergency response preparedness. Compliance with this requirement will become necessary only after the EPA has promulgated rules for these plans. This provision will be included as an applicable requirement in the Title V operating permit at that time.

7. Residual Risk

Regulation of air toxics under the federal program has been directed away from the health-risk assessment to technology based control and Division 32 is consistent with this. The applicability of health risk assessment is reserved until eight years after a MACT standard has been established. After this eight year use of MACT, the EPA will assess the

residual health risks to the population near each source in the designated source category. These assessments will be primarily based on a determination of the lifetime cancer risk for the maximum exposed individual near each source. If a substantial risk for a pollutant remains after MACT control of the particular source category, EPA is required to tighten the MACT standard. The MACT standard for each category for which EPA promulgates a residual risk standard will then be revised.

8. Other Provisions

As mentioned above, consideration of the risk from emissions remaining after MACT is applied will occur eight years after the promulgation of a MACT standard. In light of this, the Department as a result of discussions with the Industrial Source Advisory Committee has proposed a method for addressing these residual emissions prior to the federal requirement. The rules include compound specific de minimis values which will be used as a threshold to determine if additional emission reduction measures are required of new and modifying sources. If residual emissions exceed these de minimis levels, a source is required to propose additional emission reduction measures or provide an air quality analysis demonstrating no harmful effects. The Department may initiate the rule making process to require additional controls on the source if it determines that additional controls are needed to protect the public health and environment.

The Department is also requiring sources to report on the manufacture, processing or use of approximately 200 chemicals in addition to the 189 listed on the HAP list. This requirement will assist the Department in determining if there are additional chemicals or sources that should be regulated to protect public health and the environment.

Oregon's Toxic Use Reduction and Hazardous Waste Reduction Act (ORS 465.003) requires sources that are users of hazardous chemicals or generators of hazardous waste to submit plans for reductions in toxic substance usage and hazardous waste generation. The regulations requiring these plans and the list of chemicals subject to the requirements are contained in the rules pertaining to solid and hazardous waste under OAR 340-135-000 through OAR 340-135-110. The list of HAP will be added to the toxic substance and hazardous waste list during the next rule revision process. This will require that large users or generators of the listed chemicals and wastes which are also major HAP sources complete TURHWR plans as well.

E. Transition from Interim Policy to Title III Rules

1. Background

For the past several years the Air Quality Division has been using an interim policy to control the release of hazardous air pollutants from new or modified industrial facilities. This was done because there was a need to address these pollutants but it was not clear what the anticipated changes to the Federal Clean Air Act would require. This policy will be completely replaced by the provisions in OAR Division 32 at the time that the Title V program is approved by EPA. Existing air toxic permit conditions will be retained and incorporated into new Title V permits through the mechanisms described in Division 28. The 1990 Amendments provide a comprehensive new approach to regulating emissions of hazardous air pollutants which is based on available control technology and on preventing adverse health and environmental effects.

In Oregon, as in other states, the change in approach mandated by the federal program has created some gaps and inconsistencies in implementation between existing and new programs. The Air Quality Division has identified a number of implementation issues which have been discussed with the Air Quality Industrial Source Control Advisory Committee.

Due to either resource or statutory constraints on the program, the rules to implement Section 112 (Hazardous Air Pollutants) of the Act differ in several important ways from the existing interim policy.

2. Regulated Hazardous Air Pollutants

The interim policy has an open-ended list of pollutants that may be considered for control. In practice, permitting engineers refer to a table of over 750 pollutants, compiled from EPA's lists of carcinogens and an occupational health related (ACGIH) list of Threshold Limit Values, when reviewing permit applications.

Section 112 of the Act has a much shorter list of 189 substances and groups of substances which will be regulated. Although there are provisions to amend this list, it is clear that a number of pollutants currently being emitted and considered to pose a problem will not be regulated under the federal program. By requiring sources to quantify and report emissions of additional chemicals in the application for a permit to operate, the Department expects to gather the information needed to regulate additional pollutants and sources if necessary.

The rules provide for regulation of only those substances listed in the Act. However, a rule which allows the state list to be amended, with criteria paralleling the federal process and consistent with state statutory limitations, is also included. If adequate information is presented to, or developed by, the Department the EQC may make additions to the list of regulated pollutants. The rules also allow the EQC to make a finding that adequate information exists to delete a chemical from regulation in Oregon only if the EPA has also delisted the chemical.

3. Applicable Sources

The interim policy evaluates only new sources and major modifications of existing sources for their hazardous air pollutant emissions. This approach is efficient to administer and ensures that new construction does not result in problem sources. In addition, a table of compound-specific significant emissions rates was developed to screen out sources too small to be of concern. This resulted in sources being required to quantify their emissions, but only a few being required to analyze their potential ambient impact or refine their analysis of control options.

Under the Act, major sources (emitting greater than 10 tons per year of one HAP or 25 tons per year of a combination of HAP) are required to obtain permits, while smaller sources are initially deferred. An immediate result is that new, modified, and existing sources of the listed hazardous air pollutants will be evaluated. The inclusion of existing sources in the federal program will greatly expand the number of sources to which emission standards and control technologies apply.

The Department's current emission rate cut-offs listed in the interim air toxics policy are generally much lower than the 10/25 tons per year threshold of the new program. Initially in the new program, sources not meeting the major source definition will not be permitted under the Federal Operating Permit rules. The Department would permit such non-major sources through the state's Air Contaminant Discharge Permit program if the source type is listed in Table 1 of OAR 340-28-1750. The Department believes that with the inclusion of existing sources and the effectiveness of the new control technology standards, more control and reduction of actual emissions of hazardous air pollutants will be realized than has previously been achieved. In addition, the Department intends to review each federally promulgated emission standard for adequacy in protecting public health and the environment in Oregon. This would be done as a part of the process to adopt the federal requirement as a state rule.

4. Process

For each source emitting hazardous air pollutants there will be three possible regulatory processes to follow. Major sources must apply for and receive a Title V operating permit according to the procedures outlined in the new Division 28 rules. As written, non-major, or area sources in one of the federally listed source categories are temporarily deferred from permitting but are still required to meet all substantive control requirements which are promulgated by EPA or EQC. Other non-major sources will be permitted under the state permitting rules according to the requirements of the interim policy.

5. Timing

The rules require that new major sources meet any applicable requirements at the time they begin operation. Existing sources will be required to apply for operating permits within a year of EPA's approval of Oregon's program. The rules are scheduled to be taken to the EQC for adoption in September 1993 and will become effective immediately. However, since the rules will be implemented through the Title V permit program, approval of the permit program by EPA is necessary to begin implementing the substantive program requirements.

The Department considered two options for evaluating and permitting new and modified major HAP sources during the interim period between when these rules are adopted by the EQC (September 1993) and when the EPA is expected to grant approval of Oregon's federal operating permit program (November 1994).

The first option was to adopt the proposed rules but include a provision that the rules are not effective until approval of the federal operating permit program by the EPA. The Department would then continue to implement the interim air toxics policy until approval of the federal operating permit program. After approval the interim policy would only apply to the few non-major sources not included in one of the EPA's area source categories.

The second option considered was to discontinue implementing the interim air toxics policy and to begin implementing the proposed HAP rules through the existing ACDP process after adoption by the EQC. With this second approach, sources for which MACT standards are promulgated over the next year would have the applicable standards and compliance schedule incorporated into a permit immediately. This approach would also provide the Department with the opportunity to begin gathering control technology data and developing guidance

for implementing case-by-case MACT determinations.

This first option is recommended by the Department and the Air Quality Industrial Source Control Advisory Committee because the new program for controlling air toxics is still in its formative stages at the federal level. For example, EPA has not provided the states with guidance on implementing the provisions of 112(g) for modifications or 112(j) for state case-by-case MACT determinations if the EPA misses one of its deadlines. Much of this guidance is expected to be available prior to the EPA's approval of the Oregon submittal. In addition, the Department has been implementing the existing air toxics policy since 1988 and believes this policy can continue to be effectively used while developing key elements of the new program over the next year.

Discussions with the Industrial Source Advisory Committee also advised that Department guidance to the regulated community be prepared paralleling the best available information from the EPA and that further rule making be undertaken quickly after promulgation of federal regulations. The Department supports this process.

F. Discussion for Rules

1. General Provisions for Stationary Sources

OAR 340-32-100 addresses the policy and purpose for implementing rules to control stationary sources of hazardous air pollutants. The Department's intent is to implement section 112 of the Clean Air Act as amended in 1990. Because the Department is required to operate within budgetary and statutory constraints, it is implementing only the minimum federal requirements at this time. The Department is limited to implementing only the federal program unless the EQC finds that a scientifically defensible argument exists for implementing more stringent procedures and requirements to protect public health and the environment. Should the EQC find that additional regulations are justified, and additional resources become available to the Department, additional rule making will follow.

The Department sought and received comments on the proposed policy and purpose for these rules. A few comments suggested that the policy was too broad and that it should be restricted to adopting federal standards as they are promulgated. In the Department's view these hazardous air pollutant rules must apply to more than major sources of these pollutants and these rules are intended to provide the

framework for regulating area sources as well. The Department's statutory authority extends to non-major sources and it is not constrained in the same manner as it is for major sources in the Title V permit program.

The Department also sought comment on criteria for making a scientifically defensible argument to the EQC for additional rule making to protect public health and the environment but received no comments.

2. List of Hazardous Air Pollutants and Amending the List

OAR 340-32-130, Table 1 defines the list of regulated hazardous air pollutants which are routinely emitted from stationary sources and for which emission standards will be developed. The list of pollutants to be regulated for purposes of accidental releases are contained in OAR 340-32-5400, Table 3.

Under OAR 340-32-130 the Department is proposing to initially adopt the same list of 189 pollutants as listed in 112(b) of the Clean Air Act. The EPA is required to periodically review this list and revise it as appropriate. In addition, the Department, or any person, may request that the EQC modify the list. Pollutants which present, or may present, a threat of adverse effect to public health or the environment may be added to the list. After the EPA has delisted a chemical the Department or any person may also present information to the EQC to delete a chemical from the list. It must be demonstrated that a particular chemical is not suspected of causing adverse effects to public health or the environment.

Section 112(b)(1) of the Act provides an initial list of 189 substances and groups of substances which will be regulated. The Department considered adopting other chemical lists including the Department's Interim Air Toxics Policy list of over 750 chemicals, lists used by other states with existing air toxics programs, and the SARA Title III Section 313 Community Right to Know list of over 300 chemicals.

The primary purpose of the initial Federal list of 189 compounds is to help identify the source categories which will be required to control their emissions. Control of the categories already identified will be a major undertaking and will significantly reduce the amount and toxicity of HAP emissions. Addition of pollutants to the list will have little practical effect on the development of control standards in the short term. The Department is proposing to adopt the 112(b) list to initiate the HAP program because of the statutory constraint on going beyond the minimum program federally required and the difficulty of providing a

scientific justification for an expanded list at this time. The Department intends to review and evaluate the list during program implementation to determine if the primary pollutants of concern in Oregon are being regulated. The Department proposes to do this through OAR 340-32-240 which requires sources to report on their manufacture, processing or use of many other hazardous air pollutants, in addition to those listed in Table 1.

The Department's process for amending the list is described in the rule OAR 340-32-140. This rule requires the EQC to make a finding based on a scientifically defensible argument that an adverse effect exists due to exposure from a particular chemical. If the EQC determines that the substance is toxic, is released into the air in Oregon, and that exposure has the potential to cause adverse effects then the list will be amended through rule making. The Department would then petition the EPA to add the chemical to the 112(b) list. In addition, chemicals will be added to Table 1 as the EPA adds them. Substances will be deleted after the EPA delists the chemical, unless the EQC makes a finding that adverse effects on public health or the environment could occur from delisting the chemical.

The Department was limited in its options for a process to amend the list because of the statutory requirements of ORS 468A.300 through ORS 468A.330, which restrict the Department from going beyond the minimum federal program unless the EQC finds a scientifically defensible justification for doing so. The Department did consider petitioning the EQC to adopt a more inclusive list than the 189 pollutants before this round of rule making. It was determined that the Department did not have adequate resources to collect sufficient scientific data and present a showing of adverse effect for each individual chemical at this time. The Department decided that a process that allows any member of the public to petition for a chemical addition would result in a list more reflective of public health concerns in Oregon and provides for more efficient use of the Department's limited resources.

The Department requested comment on the proposed rule which provides a process for amending the state list of regulated HAP, on other options for amending the list, and on criteria that the EQC may use when making a finding that a particular chemical causes an adverse effect. While there were many suggestions for expanding the initial list of HAP, the Department received no comments on the process for amending the list. Some of the suggestions could be viewed as providing an alternative process for amending the list, such as including substances listed by other states, but in order to make these additions the criteria proposed in the rules

would still have to be met. No changes were made to either OAR 340-32-130, Table 1 or OAR 340-32-140.

3. Permit Application Requirements

This section of the rules for sources of hazardous air pollutants outlines the requirements for the different types of permits applicable to HAP sources. This section is also a pointer to Division 28 for application procedures and permit requirements. OAR 340-32-210 states that these rules are applicable to all sources that have the potential to emit any of the listed hazardous air pollutants. The permitting requirements apply initially to major sources of HAP. Smaller sources will not initially be required to obtain permits but are expected to comply with any emissions standards developed for the applicable source category. OAR 340-32-220 outlines the general requirement that new or existing major sources of HAP, sources that become major sources after making operational or process changes, and major sources that modify are subject to notification and permit application requirements.

4. Permit to Construct or Modify

OAR 340-32-230 addresses preconstruction permitting for major HAP sources. The minimum requirement is that sources complete a permit application prior to construction and obtain a construction permit which includes the control technology and emission standards that the source will be required to comply with prior to operation.

The Department sought comment on the procedure for preconstruction permitting of major HAP sources and on the role that the Department's interim toxics policy should play.

The proposed rule has been substantially revised. After reviewing comments received on the preconstruction permitting process and after discussions with the Advisory Committee the Department has rewritten the rule to clarify the preconstruction permitting process required of each type of new or modified source.

In the final rule there are five types of HAP sources identified that need preconstruction permits. The rule points each type to the appropriate place in Division 28 for the procedures of obtaining a preconstruction permit.

New major HAP sources never before permitted, and existing minor sources never before permitted that are proposing to modify to become a major HAP source must obtain a new air contaminant discharge permit (ACDP) as outlined in OAR 340-

28-1700 through 1790.

Existing major HAP sources already operating under a Title V permit that are proposing a modification must obtain a preconstruction permit as outlined in OAR 340-28-2270.

Any existing source operating under an ACDP that proposes to modify and become a major HAP source, or any synthetic minor source that proposes to become a major HAP source by constructing or modifying an emissions unit, must obtain a modified ACDP as outlined under OAR 340-28-1700 through 1790.

And finally, any existing synthetic minor source that proposes to become a major HAP source by changing one of the enforceable restrictions in its ACDP permit must apply for and obtain a Title V permit before operating. After receiving the appropriate preconstruction permit and upon commencement of operation, a source has twelve months to apply for an operating permit under the new federal operating permit (Title V) program.

As noted in further detail in the Division 28 discussion of preconstruction permits, there are advantages and disadvantages to separating preconstruction permits from operating permits. The ACDP process requires only one level of determination of adequacy of those programs for which the Department has delegation and avoids redundant review by EPA. On the other hand, this process requires the source to obtain two separate permits; the ACDP for preconstruction and the Title V operating permit after operation. This may not be as burdensome as it appears because if the ACDP application and permit requirements are sufficient, the requirements can be incorporated into the operating permit as applicable requirements through the administrative amendments process described in Division 28. The Title V preconstruction permit option offers the advantage of only one permit but subjects the source to dual review by both the Department and the EPA and a more difficult construction permitting process.

5. Permit to Operate

OAR 340-32-240 requires major sources of hazardous air pollutants to obtain a federal operating permit within one year of commencing operation. This rule is also a pointer to OAR 340-28-2100 through 2300 where the permit application procedures and permit requirements are described.

As a result of comments the Department received regarding Division 28, section (1) of this rule was substantially revised to make it consistent with the permitting

requirements in that Division. OAR 340-32-240(1) as rewritten acts as a pointer to the applicable permit application procedures in Division 28. The rule identifies the same types of sources as identified in OAR 340-32-230 and directs owners or operators to the process they must follow for applying for and obtaining their operating permit, depending on the type of preconstruction permit they received.

The Department received several comments on OAR 340-32-240(2)(b) and (c) as it was originally proposed. As a result of these comments and recommendations from the Advisory Committee this rule has been substantially revised. The Department had sought comment on the 1000 pound per year threshold for reporting emissions of additional chemicals, in particular on the adequacy of that threshold for public health and public information purposes, and the reporting burden this requirement would place on affected sources.

The Department's intent was to develop a process to respond to public concerns regarding the list of chemicals. Members of the Advisory Committee and the public-at-large were concerned that the list of regulated air pollutants in 112(b) did not include many pollutants of concern. The Department agrees that some chemicals not listed on the 112(b) list have the potential of being emitted in Oregon and may pose a threat to public health and the environment. The Department is required to formulate a scientifically defensible argument that a threat of adverse effect exists from a particular chemical and present this argument to the Commission before the list of regulated air pollutants can be amended.

The Department originally proposed that major sources of HAP be required to quantify emissions of approximately 200 chemicals in addition to those on the HAP list of 189 chemicals. Sources would have been required to quantify routine emissions of the chemicals included on the list of additional pollutants when routine emissions of each chemical were expected to exceed a threshold of 1000 pounds per year.

The rule as revised, would now require sources to provide information on the use of the additional chemicals with a potential for impacts on public health and the environment. The additional chemicals come from the list of chemicals used for reporting under SARA Title III Section 313 (amendments to the Emergency Preparedness and Community Right to Know Act), and from the list of chemicals proposed under Accidental Releases Section 112(r) of the Clean Air Act. Instead of being required to estimate emissions greater than 1,000 pounds per year of these chemicals as

originally proposed, sources would be required to indicate if they manufacture, process, or use any of the additional chemicals. Sources would estimate their annual usage of these chemicals in the following ranges: 0, under 1,000 pounds, 1,001 to 10,000 pounds, 10,001 to 20,000 pounds, 20,001 to 50,000 pounds, and greater than 50,000 pounds. It is important to note that the requirement for estimating this information is only required at the time of permit application, modification, or renewal. This is NOT an annual reporting requirement.

The requirements included under 340-32-240(2) are intended to give the Department information to decide whether to initiate the rule making process for adding a particular chemical to the list of regulated pollutants. In addition, the information collected under this rule will allow the Department to keep an inventory of toxic chemical emissions and track the effectiveness of MACT standards, determine trends in air toxic emissions (both of regulated and non-regulated pollutants), and also provide the public with information on additional chemicals emitted at a particular facility.

Many commentators stated that this rule as proposed was unnecessarily burdensome to industrial sources and exceeded minimum federal requirements. The Department must be able to gather information about releases of additional substances in order to meet its obligation to provide the Commission with scientific evidence of a need to go beyond the minimum federal requirements. There was general agreement among the Advisory Committee members that the issue of additional toxic chemicals should be addressed and that the permitting process was the most appropriate place to gather the information needed. The Department worked with Advisory Committee members to revise the rule language in order to decrease the reporting burden on sources and still provide the Department and the public with the most critical data needed.

Under these rules the Department is not proposing to regulate emissions of the additional pollutants. Therefore, the level of effort required for sources to estimate their annual usage of the additional chemicals is less than that required for quantifying emissions of chemicals on the HAP list. Sources will be required to quantify emissions of chemicals on the HAP list based on the source's potential to emit. Estimates of annual usage of the additional chemicals can be based on readily available information such as purchase records, stock room inventories, or mass balance calculations. The Department may request supporting documentation or additional emissions data for a specific chemical or emissions unit if the information provided is

insufficient.

The combined list of chemicals for which emissions are to be quantified or annual usages are to be estimated in the permit application is on the following pages.

<u>CAS Number</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>Chemical Name</u>
75-07-0	X	X	X	Acetaldehyde
60-35-5	X	X		Acetamide
75-86-5			X	Acetone Cyanohydrin
67-64-1		X		Acetone
75-05-8	X	X		Acetonitrile
98-86-2	X			Acetophenone
53-96-3	X	X		2-Acetylaminofluorene
74-86-2			X	Acetylene
107-02-8	X	X	X	Acrolein
79-06-1	X	X		Acrylamide
79-10-7	X	X		Acrylic Acid
107-13-1	X	X	X	Acrylonitrile
814-68-6			X	Acrylyl Chloride
309-00-2		X		Aldrin
107-18-6			X	Allyl Alcohol
107-05-1	X	X		Allyl Chloride
107-11-9			X	Allylamine
7429-90-5		X		Aluminim (Fume or Dust)
1344-28-1		X		Aluminum Oxide
82-28-0		X		1-Amino-2-Methylanthraquinone
117-79-3		X		2-Aminoanthraquinone
60-09-3		X		4-Aminoazobenzene
92-67-1	X	X		4-Aminobiphenyl
7664-41-7		X	X	Ammonia
6484-52-2		X		Ammonium Nitrate (Solution)
7783-20-2		X		Ammonium Sulfate (Solution)
62-53-3	X	X	X	Aniline
90-04-0	X	X		o-Anisidine
104-94-9		X		p-Anisidine
134-29-2		X		o-Anisidine Hydrochloride
120-12-7		X		Anthracene
7783-70-2			X	Antimony Pentafluoride
*	X	X		Antimony Compounds
7440-36-0		X		Antimony
7440-38-2		X		Arsenic
*	X	X		Arsenic Compounds
7784-34-1			X	Arsenous Trichloride
7784-42-1	X		X	Arsine
1332-21-4	X	X		Asbestos (Friable)
*		X		Barium Compounds
7440-39-3		X		Barium
98-87-3		X	X	Benzal Chloride
55-21-0		X		Benzamide
98-16-8			X	Benzenamine, 3-(Trifluoromethyl)
71-43-2	X	X		Benzene
92-87-5	X	X		Benzidine
98-07-7	X	X	X	Benzoic Trichloride (Benzotrichloride)
98-88-4			X	Benzoyl Chloride

NOTE: A - From the list of Hazardous Air Pollutants in Section 112(b) of the Federal Clean Air Act.
 B - From the list of Hazardous substances included in the Title III, Section 313 of the Superfund Amendments and Reauthorization Act (SARA) of 1986.
 C - From the list of regulated substances for Accidental Release Prevention as published in 40 CFR Part 68.

<u>CAS Number</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>Chemical Name</u>
100-44-7	X	X		Benzyl Chloride
140-29-4			X	Benzyl Cyanide
*	X	X		Beryllium Compounds
92-52-4	X	X		Biphenyl
*	X			Bis(2-ethylhexyl)phthalate
542-88-1	X	X		Bis(chloromethyl)ether
10294-34-5			X	Boron Trichloride
353-42-4				Boron Trifluoride Compound w/ Methyl Ethyl(1:1)
7637-07-2			X	Boron Trifluoride
7726-95-6			X	Bromine
75-25-2	X	X		Bromoform
598-73-2			X	Bromotrifluorethylene
106-99-0	X	X	X	1,3-Butadiene
106-97-8			X	Butane
106-98-9			X	1-Butene
25167-67-3			X	Butene
107-01-7			X	2-Butene
590-18-1			X	2-Butene-cis
624-64-6			X	2-Butene-trans
*	X	X		Cadmium Compounds
156-62-7	X	X		Calcium Cyanamide
105-60-2	X			Caprolactam
133-06-2	X	X		Captan
63-25-2	X	X		Carbaryl
463-58-1			X	Carbon Oxysulfide
75-15-0	X		X	Carbon Disulfide
56-23-5	X			Carbon Tetrachloride
463-58-1	X	X		Carbonyl Sulfide
120-80-9	X	X		Catechol
133-90-4	X	X		Chloramben
57-74-9	X	X		Chlordane
7791-21-1			X	Chlorine Monoxide
10049-04-4		X	X	Chlorine Dioxide
7782-50-5	X	X	X	Chlorine
79-11-8	X	X		Chloroacetic Acid
532-27-4	X	X		2-Chloroacetophenone
108-90-7	X	X		Chlorobenzene
510-15-6	X	X		Chlorobenzilate
107-07-3			X	Chloroethanol
67-66-3	X	X	X	Chloroform
542-88-1			X	Chloromethyl Ether
107-30-2	X	X	X	Chloromethyl Methyl Ether
126-99-8	X	X		Chloroprene
557-98-2			X	2-Chloropropylene
590-21-6			X	1-Chloropropylene
*	X	X		Chromium Compounds
*	X	X		Cobalt Compounds
*	X			Coke Oven Emissions
108-39-4	X	X		m-Cresol
95-48-7	X	X		o-Cresol
106-44-5	X	X		p-Cresol
1319-77-3	X	X		Cresols/Cresylic Acid (Isomers and mixture)
4170-30-3			X	Crotonaldehyde
123-73-9			X	Crotonaldehyde, (E)-
98-82-8	X	X		Cumene
*	X			Cyanide Compounds

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C - From the list of regulated substances for Accidental Release Prevention as published in 40 CFR Part 68.

<u>CAS Number</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>Chemical Name</u>
506-77-4			X	Cyanogen Chloride
460-19-5			X	Cyanogen
108-91-8			X	Cyclohexylamine
75-19-4			X	Cyclopropane
94-75-7	X	X		2,4-D salts and esters
3547-04-4	X			DDE
334-88-3	X	X		Diazomethane
132-64-9	X	X		Dibenzofurans
19287-45-7			X	Diborane
96-12-8	X	X		1,2-Dibromo-3-chloropropane
84-74-2	X			Dibutylphthalate
25321-22-6		X		Dichlorobenzene (mixed isomers)
95-50-1		X		1,2-Dichlorobenzene
541-73-1		X		1,3-Dichlorobenzene
106-46-7	X	X		1,4-Dichlorobenzene
91-94-1	X			3,3-Dichlorobenzidine
75-27-4		X		Dichlorobromomethane
110-57-6			X	trans-1,4-Dichlorobutene
107-06-2	X	X		1,2-Dichloroethane (Ethylene Dichloride)
111-44-4	X		X	Dichloroethyl Ether (Bis(2-chloroethyl)ether)
540-59-0		X		1,2-Dichloroethylene
75-09-2	X	X		Dichloromethane (Methylene Chloride)
120-83-2		X		2,4-Dichlorophenol
78-87-5	X	X		1,2-Dichloropropane (Propylene dichloride)
542-75-6	X	X		1,3-Dichloropropene
4109-96-0			X	Dichlorosilane
62-73-7	X	X		Dichlorvos
115-32-2		X		Dicofol
1464-53-5		X		Diepoxybutane
111-42-2	X	X		Diethanolamine
84-66-2		X		Diethyl Phthalate
64-67-5	X	X		Diethyl Sulfate
75-37-6			X	Difluoroethane
119-90-4	X	X		3,3-Dimethoxybenzidine
68-12-2	X			Dimethyl Formamide
57-14-7				Dimethylhydrazine
131-11-3	X	X		Dimethyl Phthalate
77-78-1	X	X		Dimethyl Sulfate
2524-03-0			X	Dimethyl Phosphorochloridothioate
57-14-7	X	X	X	1,1-Dimethylhydrazine
124-40-3			X	Dimethylamine
60-11-7	X	X		4-Dimethylaminoazobenzene
121-69-7	X	X		N,N-Dimethylaniline
119-93-7	X	X		3,3-Dimethylbenzidine (o-Tolidine)
79-44-7	X	X		Dimethylcarbonyl Chloride
75-78-5			X	Dimethyldichlorosilane
105-67-9		X		2,4-Dimethylphenol
463-82-1			X	2,2-Dimethylpropane
534-52-1	X	X		4,6-Dinitro-o-Cresol
51-28-5	X			2,4-Dinitrophenol
121-14-2	X	X		2,4-Dinitrotoluene
606-20-2		X		2,6-Dinitrotoluene
134-32-7		X		alpha-Naphthylamine
123-91-1	X	X		1,4-Dioxane (1,4-Diethyleneoxide)
122-66-7	X	X		1,2-Diphenyl Hydrazine (Hydrazobenzene)
106-89-8	X	X	X	Epichlorohydrin (1-Chloro-2,3-epoxypropane)

NOTE: A - From the list of Hazardous Air Pollutants in Section 112(b) of the Federal Clean Air Act.
 B - From the list of Hazardous substances included in the Title III, Section 313 of the Superfund Amendments and Reauthorization Act (SARA) of 1986.
 C - From the list of regulated substances for Accidental Release Prevention as published in 40 CFR Part 68.

CAS Number	A	B	C	Chemical Name
106-88-7	X			1,2-Epoxybutane
74-84-0		X		Ethane
110-80-5		X		2-Ethoxyethanol
109-95-5			X	Ethyl Nitrite
541-41-3		X		Ethyl Chloroformate
75-00-3	X		X	Ethyl Chloride (Chloroethane)
100-41-4	X	X		Ethyl Benzene
140-88-5	X	X		Ethyl Acrylate
60-29-7			X	Ethyl Ether
75-08-1			X	Ethyl Mercaptan
107-00-6			X	Ethyl Acetylene
75-04-7			X	Ethylamine
106-93-4	X			Ethylene Dibromide (Dibromoethane)
107-21-1	X	X		Ethylene Glycol
74-85-1		X	X	Ethylene
75-21-8	X	X	X	Ethylene Oxide
96-45-7	X	X		Ethylene Thiourea
107-15-3			X	Ethylenediamine
151-56-4	X	X	X	Ethyleneimine (Aziridine)
75-34-3	X			Ethylidene Dichloride (1,2-Dichloroethane)
*	X			Fine Mineral Fibers
2164-17-2		X		Fluometuron
7782-41-4			X	Fluorine
50-00-0	X	X	X	Formaldehyde
107-16-4			X	Formaldehyde Cyanohydrin
110-00-9			X	Furan
*	X	X		Glycol Ethers
76-44-8	X	X		Heptachlor
87-68-3	X			Hexachloro-1,3-Butadiene
118-74-1	X	X		Hexachlorobenzene
77-47-4	X	X		Hexachlorocyclopentadiene
67-72-1	X	X		Hexachloroethane
1335-87-1		X		Hexachloronaphthalene
822-06-0	X			Hexamethylene-1,6-Diisocyanate
680-31-9	X	X		Hexamethylphosphoramide
110-54-3	X			Hexane
302-01-2	X	X	X	Hydrazine
10034-93-2		X	X	Hydrazine Sulfate
7647-01-0	X	X	X	Hydrochloric Acid
74-90-8		X	X	Hydrocyanic Acid
1333-74-0			X	Hydrogen
7664-39-3	X	X	X	Hydrogen Fluoride (Hydrofluoric Acid)
7722-84-1			X	Hydrogen Peroxide (Conc. greater than 52%)
7783-06-4	X		X	Hydrogen Sulfide
7783-07-5			X	Hydrogen Selenide
123-31-9	X	X		Hydroquinone
13463-40-6			X	Iron, Pentacarbonyl-
75-28-5			X	Isobutane
78-84-2		X		Isobutyraldehyde
78-82-0			X	Isobutyronitrile
78-78-4			X	Isopentane
78-59-1	X			Isophorone
78-79-5			X	Isoprene
108-23-6			X	Isopropyl Chloroformate
75-29-6			X	Isopropyl Chloride
75-31-0			X	Isopropylamine

NOTE: A - From the list of Hazardous Air Pollutants in Section 112(b) of the Federal Clean Air Act.
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C - From the list of regulated substances for Accidental Release Prevention as published in 40 CFR Part 68.

<u>CAS Number</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>Chemical Name</u>
80-05-7		X		4,4'-Isopropylidenediphenol
78-97-7			X	Lactonitrile
*	X	X		Lead Compounds
58-89-9	X	X		Lindane (all isomers)
108-31-6	X	X		Maleic Anhydride
12427-38-2		X		Maneb
*	X	X		Manganese Compounds
108-78-1		X		Melamine
*	X	X		Mercury Compounds
126-98-7			X	Methacrylonitrile
74-82-8			X	Methane
67-56-1	X	X		Methanol
72-43-5	X	X		Methoxychlor
109-86-4		X		2-Methoxyethanol
74-87-3	X		X	Methyl Chloride (Chloromethane)
556-64-9			X	Methyl Thiocyanate
74-83-9	X		X	Methyl Bromide (Bromomethane)
80-62-6	X			Methyl Methacrylate
78-93-3	X	X		Methyl Ethyl Ketone (2-Butanone)
108-10-1	X	X		Methyl Isobutyl Ketone
624-83-9	X	X	X	Methyl Isocyanate
96-33-3		X		Methyl Acrylate
107-31-3			X	Methyl Formate
1634-04-4	X	X		Methyl tert-Butyl Ether
74-93-1			X	Methyl Mercaptan
115-10-6			X	Methyl Ether
79-22-1			X	Methyl Chloroformate
60-34-4	X	X	X	Methyl Hydrazine
74-88-4	X	X		Methyl Iodide (Iodomethane)
563-46-2			X	2-Methyl-1-butene
563-45-1			X	3-Methyl-1-butene
74-89-5			X	Methylamine
74-95-3		X		Methylene Bromide
101-68-8	X	X		Methylene Bis(Phenylisocyanate) (MBI) Methylene (diphenyl Diisocyanate (MDI))
101-61-1		X		4,4-Methylene Bis(N,N-Dimethyl) Benzenamine
101-14-4	X	X		4,4-Methylene Bis(2-Chloroaniline) (MBOCA)
101-77-9	X	X		4,4-Methylenedianiline
115-11-7			X	2-Methylpropene
75-79-6			X	Methyltrichlorosilane
90-94-8		X		Michler's Ketone
1313-27-5		X		Molybdenum Trioxide
117-84-0		X		n-Dioctyl Phthalate
91-20-3	X	X		Naphthalene
91-59-8		X	X	beta-Naphthylamine
*	X			Nickel Compounds
13463-39-3			X	Nickel Carbonyl
7697-37-2		X	X	Nitric Acid
10102-43-9			X	Nitric Oxide
139-13-9		X		Nitrilotriacetic Acid
99-59-2		X		5-Nitro-o-Anisidine
98-95-3	X	X	X	Nitrobenzene
92-93-3	X	X		4-Nitrobiphenyl
1836-75-5		X		Nitrofen
51-75-2		X		Nitrogen Mustard
55-63-0		X		Nitroglycerin

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C - From the list of regulated substances for Accidental Release Prevention as published in 40 CFR Part 68.

CAS Number	A	B	C	Chemical Name
88-75-5		X		2-Nitrophenol
100-02-7	X	X		4-Nitrophenol
79-46-9	X	X		2-Nitropropane
759-73-9		X		n-Nitroso-N-Ethylurea
684-93-5	X	X		n-Nitroso-N-Methylurea
924-16-3		X		n-Nitrosodi-N-Butylamine
621-64-7		X		n-Nitrosodi-N-Propylamine
55-18-5		X		n-Nitrosodiethylamine
62-75-9	X	X		n-Nitrosodimethylamine
86-30-6		X		n-Nitrosodiphenylamine
156-10-5		X		p-Nitrosodiphenylamine
4549-40-0		X		n-Nitrosomethylvinylamine
59-89-2	X	X		n-Nitrosomorpholine
16543-55-8		X		n-Nitrosornicotine
100-75-4		X		n-Nitrosopiperidine
2234-13-1		X		Octachloronaphthalene
20816-12-0		X		Osmium Tetroxide
56-38-2	X	X	X	Parathion
87-86-5	X	X		Pentachlorophenol (PCP)
504-60-9			X	1,3-Pentadiene
109-66-0			X	Pentane
646-04-8			X	2-Pentene, (E)
627-20-3			X	2-Pentene (Z)
109-67-1			X	1-Pentene
79-21-0		X	X	Peracetic Acid
594-42-3			X	Perchloromethylmercaptan
108-95-2	X	X	X	Phenol
106-50-3	X	X		p-Phenylenediamine
90-43-7		X	X	2-Phenylphenol
75-44-5	X	X	X	Phosgene
7803-51-2	X		X	Phosphine
7723-14-0	X			Phosphorous
10025-87-3			X	Phosphorus Oxychloride
7719-12-2			X	Phosphorus Trichloride
7664-38-2		X		Phosphorus (Yellow or white)
85-44-9	X	X		Phthalic Anhydride
88-89-1		X		Picric Acid
110-89-4			X	Piperidine
*		X		Polybrominated Biphenyls (PBB)
1336-36-3	X	X		Polychlorinated Biphenyls (Arochlors)
*	X			Polycyclic Organic Matter
463-49-0			X	Propadiene
1120-71-4	X	X		1,3-Propane Sultone
74-98-6			X	Propane
57-57-8	X	X	X	beta-Propiolactone
123-38-6	X	X	X	Propionaldehyde
107-12-0			X	Propionitrile
114-26-1	X	X		Propoxur
109-61-5			X	Propyl Chloroformate
115-07-1		X	X	Propylene (Propene)
75-56-9	X	X	X	Propylene Oxide
75-55-8	X	X	X	1,2-Propylenimine (2-Methylene aziridine)
74-99-7			X	Propyne
110-86-1		X		Pyridine
140-76-1			X	Pyridine,2-Methyl-5-Vinyl-
91-22-5	X	X		Quinoline

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C - From the list of regulated substances for Accidental Release Prevention as published in 40 CFR Part 68.

<u>CAS Number</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>Chemical Name</u>
106-51-4	X	X		Quinone
82-68-8	X	X		Quintobenzene (Pentachloronitrobenzene)
*	X			Radionuclides
81-07-2		X		Saccharin (manufacturing only)
94-59-7		X		Safrole
*	X	X		Selenium Compounds
7803-62-5			X	Silane
*		X		Silver Compounds
1310-73-2		X		Sodium Hydroxide (Solution)
7757-82-6		X		Sodium Sulfate (Solution)
100-42-5	X	X		Styrene (monomer)
96-09-3	X	X		Styrene Oxide
7446-09-5			X	Sulfur Dioxide
7664-93-9			X	Sulfuric Acid
7446-11-9			X	Sulfur Trioxide
7783-60-0			X	Sulfur Tetrafluoride
100-21-0		X		Terephthalic (Acid)
1746-01-6	X			2,3,7,8-Tetrachlorodibenzo-p-dioxin
79-34-5	X	X		1,1,2,2-Tetrachloroethane
127-18-4	X	X		Tetrachloroethylene (Perchloroethylene)
961-11-5		X		Tetrachlorvinphos
116-14-3			X	Tetrafluoroethylene
75-74-1			X	Tetramethyllead
75-76-3			X	Tetramethylsilane
509-14-8			X	Tetranitromethane
*				Thallium Compounds
62-55-5		X		Thioacetamide
139-65-1		X		4,4'-Thiodianiline
108-98-5			X	Thiophenol
62-56-6		X		Thiourea
1314-20-1		X		Thorium Dioxide
13463-67-7		X		Titanium Dioxide
7550-45-0	X	X	X	Titanium Tetrachloride
108-88-3	X	X		Toluene
95-80-7	X			2,4-Toluene Diamine
26471-62-5		X	X	Toluene Diisocyanate (Unspecified Isomer)
584-84-9	X	X	X	Toluene-2,4-Diisocyanate
91-08-7		X	X	Toluene-2,6-Diisocyanate
95-53-4	X	X		o-Toluidine
636-21-5		X		o-Toluidine Hydrochloride
8001-35-2	X	X		Toxaphene
68-76-8		X		Triaziquone
52-68-6		X		Trichlorfon
120-82-1	X	X		1,2,4-Trichlorobenzene
71-55-6	X	X		1,1,1-Trichloroethane (Methyl Chloroform)
79-00-5	X	X		1,1,2-Trichloroethane
79-01-6	X	X		Trichloroethylene
115-21-9			X	Trichloroethylsilane
88-06-2	X	X		2,4,6-Trichlorophenol
95-95-4	X	X		2,4,5-Trichlorophenol
10025-78-2			X	Trichlorosilane
121-44-8	X			Triethylamine
79-38-9			X	Trifluorochloroethylene
1582-09-8	X	X		Trifluralin
95-63-6		X		1,2,4-Trimethyl Benzene
75-50-3			X	Trimethylamine

NOTE: A - From the list of Hazardous Air Pollutants in Section 112(b) of the Federal Clean Air Act.
B - From the list of Hazardous substances included in the Title III, Section 313 of the Superfund Amendments and Reauthorization Act (SARA) of 1986.
C - From the list of regulated substances for Accidental Release Prevention as published in 40 CFR Part 68.

<u>CAS Number</u>	<u>A</u>	<u>B</u>	<u>C</u>	<u>Chemical Name</u>
75-77-4			X	Trimethylchlorosilane
540-84-1	X			2,2,4-Trimethylpentane
126-72-7		X		Tris(2,3-Dibromopropyl) Phosphate
51-79-6	X	X		Urethane (Ethyl Carbamate)
7440-62-2		X		Vanadium (Fume or Dust)
109-92-2			X	Vinyl Ethyl Ether
75-02-5			X	Vinyl Fluoride
689-97-4			X	Vinyl Acetylene
108-05-4	X	X	X	Vinyl Acetate
593-60-2	X	X		Vinyl Bromide
107-25-5			X	Vinyl Methyl Ether
75-01-4	X	X	X	Vinyl Chloride
75-35-4	X	X	X	Vinylidene Chloride (1,1-Dichloroethylene)
75-38-7			X	Vinylidene Fluoride
108-38-3	X	X		m-Xylene
95-47-6	X	X		o-Xylene
106-42-3	X	X		p-Xylene
1330-20-7	X	X		Xylene (Mixed Isomers)
87-62-7		X		2,6-Xylidine
*		X		Zinc Compounds
12122-67-7		X		Zineb

NOTE: A - From the list of Hazardous Air Pollutants in Section 112(b) of the Federal Clean Air Act.
 B - From the list of Hazardous substances included in the Title III, Section 313 of the Superfund Amendments and Reauthorization Act (SARA) of 1986.
 C - From the list of regulated substances for Accidental Release Prevention as published in 40 CFR Part 68.

6. General Permits

OAR 340-32-250 addresses the provisions of section 504(d) of the FCAA which provides that the permitting authority may, after notice and opportunity for public hearing, issue one general permit that covers a group of similar sources. The primary purpose of 504(d) is to provide an alternative means for permitting sources for which the procedures of the normal permitting process would be overly burdensome without providing additional environmental benefit.

One category of HAP sources eligible for this type of permit is existing, never before permitted facilities that are now considered major HAP sources but for which no control (MACT) standard has been promulgated. The Department, after discussions with the Air Quality Industrial Source Control Advisory Committee is proposing the use of general permits for this category of sources only. Other categories were considered with the Advisory Committee but it was decided that public involvement with individual permits was preferable and the general permit process would restrict this. The rule requires sources covered under a general permit to reapply for individual Title V operating permits after a control standard is promulgated. Additional discussion on general permits is presented in the rule discussion for Division 28. The procedures for obtaining a general permit are presented in rule OAR 340-28-2170.

7. Quantification of Emissions

OAR 340-32-260 requires sources to use the emission quantification methods outlined in OAR 340-28-2120(4) when quantifying emissions of the HAP listed in OAR 340-32-130. These emission quantification methods have been included to ensure consistency in data used for different purposes and to encourage sources to estimate emissions that are reflective of normal operating conditions.

Section (2) of this rule allows sources the option of establishing a Plant Site Emission Limit (PSEL) for each HAP in their operating permit. A source may choose to establish a PSEL when it elects to pay emission fees on the basis of permitted emissions. The other provisions of the PSEL rule in Division 28 will not be not applicable to the use of HAP PSELs because the chemical trading and offsetting provisions under 112(g) will be substantially different than what is allowed under the current PSEL rule. The PSEL established for each HAP will become an

enforceable applicable requirement in the permit which the source will not be allowed to violate.

8. Compliance Extensions for Early Reductions

The rules relating to compliance extensions for early reductions begin with OAR 340-32-300 and continue through OAR 340-32-380. These rules reflect the conditions required in the rules for Early Reductions promulgated by EPA under 40 CFR Part 63. The regulations address the voluntary reductions program provided for in the Clean Air Act under section 112 (i)(5) referred to as the Early Reductions Program. Under this program, existing major sources of hazardous air pollutants (HAP) may be granted an alternative emission limit and a six year extension for MACT compliance. The source is required to demonstrate that it has achieved a 90% reduction in emissions of gaseous HAP and a 95% reduction in particulate HAP prior to the proposal of any applicable MACT standard.

The Applicability section of these rules, OAR 340-32-300, states that the Early Reductions program applies only to existing major sources of HAP and that interested sources must complete a Title V permit application to obtain an alternative emissions limit and compliance extension. This program is strictly voluntary. Sources who do not chose to participate in this program must comply with an applicable MACT when it is promulgated.

OAR 340-32-310 outlines the application procedures that a source volunteering for this program must comply with. The permit application must not only include all requirements to demonstrate the required emissions reductions but must also include the requirements for an (Title V) operating permit application as outlined in OAR 340-28-2120.

OAR 340-32-320 describes the general requirements of the Early Reductions program. It states that sources will be granted a six year extension from the date of compliance stated in an applicable MACT standard. In many cases, this will actually result in a nine year extension from the date a MACT standard is promulgated because existing sources may have three years to comply with the MACT after promulgation. The Department may not grant the extension if the application is found to be incomplete or if the required reduction can not be demonstrated.

OAR 340-32-330 defines what a source or early reductions unit is for purposes of Early Reductions. This definition allows the flexibility of defining an individual emission unit or any combination of emission units as an early

reductions unit as long as the emissions from the defined early reductions unit are significant. Significant is defined as base year HAP emissions of 10 tons or more when the total HAP emissions from the facility are more than 25 tons or 5 tons when the total HAP emissions from the facility are 25 tons or less. The federal rules allow flexibility in defining early reductions unit because it is difficult to anticipate how EPA will define source for each MACT standard.

The Department is not proposing any deviations from the federal definition of source in its definition of early reductions unit for purposes of Early Reductions.

OAR 340-32-340 outlines the procedures for a facility to demonstrate that it has achieved the required percent reductions. Facilities are required to quantify actual emissions of HAP using best available data. The federal rules require that the best available data be based on source tests unless the facility can show that no applicable source test method exists or that it is not technologically or economically feasible to perform source tests. For these cases, engineering calculations based on material balance or emission factors may be submitted. The Department is proposing the same criteria as the EPA in its rules for calculating actual emissions but is soliciting comments on determining what is technologically and economically feasible (or infeasible) for source testing and criteria for valid emission factors.

This provision recognizes the varying degree of toxicity of HAP and requires facilities to apply an adjustment factor to certain listed high risk pollutants. This adjustment is intended to ensure that higher toxicity pollutants are reduced at a greater rate while allowing facilities the flexibility to reduce total HAP emitted rather than having to reduce each individual pollutant. The Department is proposing the same method of adjustment and adjustment factors as promulgated in the EPA rule.

OAR 340-32-350 contains the Department's requirements for reviewing base year data. If the Department determines that the base year data submitted is complete and satisfies all requirements, then the Department will notify the public, allow for a 30 day comment period, and provide for a public hearing if requested. The public will also be provided the opportunity to comment and request a hearing on the Title V operating permit as proposed before the permit is approved by the Department.

OAR 340-32-380 states that if more than one MACT standard applies to an early reductions unit the application for

Early Reductions must be submitted prior to the date of proposal of the first applicable MACT standard. It is possible that a facility may define an early reductions unit as a group of emissions units for purposes of early reductions, and end up with more than one applicable MACT standard for that early reductions unit. In this case, the alternative emission limit granted under early reductions, applies to the defined early reductions unit until six years from the compliance date of the earliest applicable MACT standard. After the six year extension, that part of the early reductions unit to which the MACT applies must immediately comply with MACT. The rest of the emission units in the early reductions unit continue to comply with the alternative emission limit until the next applicable MACT standard is promulgated.

9. Emissions Limitation for New Major Sources

Under OAR 340-32-500, the term "Federal MACT" applies to new major sources for which a maximum achievable control technology (MACT) standard has been promulgated by EPA. The applicable MACT standard is incorporated into a source's federal operating permit as an applicable requirement. The Department's intent is to adopt MACT standards through rule making as they are promulgated by EPA. If a new major source applies for a permit and an applicable MACT standard has been promulgated by EPA but the Department has not adopted it yet, the Department will initiate emergency rule making to temporarily adopt the promulgated MACT standard for that source. The Department will then initiate final rule making to adopt the promulgated MACT standard.

The term "state MACT" refers to a case-by-case MACT determination by the Department for new sources when no MACT standard has been promulgated by EPA for the applicable source category. The Department is required under 112(g) of the FCAA to determine a case-by-case MACT standard for the source category at the time the first source in that category applies for a permit. The Department will use the same criteria for determining a MACT standard as described in the FCAA, which states that the emission standard must require the maximum degree of reduction in emissions of HAP taking in to account costs, non-air quality health and environmental impacts, and energy requirements. MACT standards may include emission reduction measures such as process changes and material substitution, air pollution control equipment, or work practice standards. The MACT standard determined for new sources will be at least as stringent as the level of control achieved by the best controlled similar source in that category currently operating in the country. The

determined MACT standard will apply to all new sources in the source category and will be reviewed by the Department on a case-by-case basis as each new source in that category applies for a permit, until EPA promulgates an applicable MACT standard.

Section (4) of this rule addresses residual emissions of HAP from major new sources after MACT is applied. The MACT standards being developed by EPA are applicable to a particular source category on a nationwide basis. The MACT standard does not take into account the location or characteristics of a particular source, nor does it take into account the problems of a particular region's airshed. In addition, the EPA is not required to examine the risk from residual emissions until eight years after a MACT standard is developed for a particular source category.

The Department has included the requirement in (4) as a method for taking these source-specific factors into account and for protecting public health and the environment. When a source's emissions exceed the de minimis levels specified in Table 1 of OAR 340-32-130 after application of new source MACT then the owner/operator must notify the Department which of the options it has selected for addressing residual emissions. The owner or operator notifies the Department through the permit to construct application process. The rule provides the option for the owner/operator to 1) propose additional emission reduction measures, 2) conduct an air quality analysis, or 3) provide additional information at the Department's request if they do not choose either of the first two options. The Department will evaluate the source's proposal for addressing residual emissions and determine if public health and the environment are being adequately protected. The Department may then initiate rule making for controlling residual emissions from the source. The Department may decide that the use of additional reduction measures are adequate, even if emissions are not reduced below the levels specified in Table 1.

Emissions reduction measures that are proposed by the owner/operator and approved by the Department will be incorporated into the source's operating permit as applicable requirements subject to the same enforcement provisions as any other emissions standard. Emissions reduction measures may include more stringent or additional control technology than the MACT standard requires, pollution prevention techniques, control of other on-site emissions units, shut down of existing equipment or operations, or cross media pollution offsets.

If an owner/operator does not propose additional emissions reduction measures when its residual emissions are above de minimis levels, provide an air quality analysis demonstrating that the source will be protective of public health and the environment, or the proposed measures are determined by the Department to be inadequate, the Department will initiate rule making to establish what additional control measures are adequate to protect public health and the environment. This procedure will involve presenting a scientifically defensible argument to the EQC that a threat of adverse effect exists and additional controls are necessary. The source will be expected to provide data as necessary to support the Department's argument.

The requirement for the reduction of residual emissions is consistent with the control technology based intent of section 112 of the FCAA. The de minimis levels, which are based on health effects data, were chosen as the target levels for additional emissions reduction measures to avoid the cumbersome and controversial process of conducting site specific risk assessments on a case-by-case basis.

The Department requested comment on the proposed requirement for additional emissions reduction measures, on other methods for determining if MACT is sufficient at a particular location, and on whether the added burden for some sources was justified for the incremental benefit to public health and the environment.

This issue generated considerable comment. Some commentators saw this as being especially burdensome for industry without providing additional environmental benefit, and condemned it for going beyond the minimum federal requirements placing Oregon business at a competitive disadvantage. Others argued that the Department was avoiding its responsibility to protect public health and the environment since no analysis of the effects of a source's emissions was required. They requested that the rules include provisions for risk analysis, with the requirement that no source could operate unless it was determined to be safe.

The issue of HAP emissions that remain after MACT is applied had been addressed in discussions with the Advisory Committee and the comments received reflected these discussions. The Committee agreed that residual emissions were a concern and could pose a threat to public health and the environment. Although residual risk is a subject that will be addressed by EPA for each industrial source category eight years after the applicable MACT

standard is developed, the Committee agreed that the addition of controls during new construction would be more appropriate.

The Department continues to believe that this technology-based approach is more consistent with the intent of the Act and that it will provide adequate protection. Because this provision goes beyond the minimum federal requirement the rule has been revised to make it clear that additional control is a choice the owner/operator of a source can make. If the Department believes emissions reductions are necessary to be protective then rule making is required.

10. Emission Limitations for Existing Major Sources

OAR 340-32-2500 addresses emission limits for existing major sources of HAP. Section (2) of this rule addresses the requirement of section 112(j) of the FCAA which requires states to determine MACT for existing sources on a case-by-case basis if EPA fails to promulgate a MACT standard according to schedule. MACT for existing sources is also based on the maximum degree of reduction in emissions taking into account economic, environmental, and energy impacts. The determined emission standard may also include those emission reduction measures mentioned previously and will be at least as stringent as the level of control achieved by the average of the best performing 12% of the sources nationwide in a particular category.

Under this rule, sources affected by this provision will have the option of proposing to the Department a MACT determination based on the best controlled source (essentially new source MACT) or the average of the best performing 12% of existing sources (existing source MACT). The option is being presented to give sources the flexibility of choosing a higher level of control for less administrative burden in the permitting process. In many cases the incremental difference in level of control between the best source versus the average of the top 12% is not significant and does not warrant the effort to compile the database required to determine the top 12%.

11. Requirements for Modifications of Existing Major Sources

Under OAR 340-32-4500, the Department is required to determine MACT emissions standards for sources that make modifications at an existing major source. A significant issue that is yet to be resolved at the Federal level is when should new source MACT versus existing source MACT apply to a modification.

Typical scenarios where this issue arises include:

- (1) construction of a new piece of equipment at an existing facility with emissions from the new unit being greater than 10 tons per year of any one HAP or 25 tons per year of any combination of HAP;
- (2) an increase in emissions at an existing piece of equipment not associated with a physical change that increases the emissions from the unit above 10/25 tons per year;
- (3) construction of a new piece of equipment whose emissions are above de minimis but below 10/25 tons per year;
- (4) reconstruction (physical change) of an existing piece of equipment where the emissions are above de minimis but below 10/25 tons per year; and
- (5) reconstruction of an existing piece of equipment that increases emissions from the unit above 10/25 tons per year.

In the rule, the Department states "the applicable MACT" and is deferring defining in rule whether new or existing source MACT applies until the EPA issues guidance under 112(g).

Section 112(g) of the Act requires that a state with a Title V permit program ensure that a major source which modifies its facility and begins emitting or increases hazardous air pollutant emissions by more than a de minimis amount must apply MACT to the modified emission source. Determining those de minimis values is another critical, yet undecided, issue. No definition of de minimis emissions is provided by the Act and the EPA is not expected to establish a definition before the November 1993 program submittal deadline.

Possible methods for determining de minimis include taking a percentage of the major source definition, using compound-specific health-based values, or putting compounds in "bins" based on toxicity and assigning a value to the bin. The Department's rules must include de minimis limits which make the program at least as stringent as the Federal rules.

The EPA has issued draft guidance for 112(g) which includes a list of de minimis levels by individual HAP and the Department has reviewed the methodology for developing this list. The Department agrees with EPA's approach which is based on modeling a worst case facility and determining the impact of a seven year exposure on an individual located 200 meters from the facility. The de minimis levels were then determined from the ambient concentrations predicted by the modeling analysis based on an acceptable risk of 1 in 1,000,000 (1×10^{-6}) or an

ample margin of safety. The Department, with the Industrial Source Advisory Committee's concurrence, proposed adopting this approach in determining the de minimis levels.

The Department sought comment on the methodology used to derive the de minimis table and on the compound-specific values included in it. Several comments were received which opposed making this EPA draft set of values into Oregon rules. However, no specific suggestions were provided for an alternative to the proposed methodology. This issue was addressed in the Advisory Committee prior to proposal and it was agreed that de minimis values were needed, and that the values in the Table represented a reasonable approach. However, the Department has committed to revising the rules and the Table when the EPA resolves the issues and promulgates regulations.

This rule also includes the same provision for addressing residual emissions as rule OAR 340-32-500.

12. Requirements for Area Sources

OAR 340-32-5000 addresses the control technology and permitting requirements for non-major or area sources of hazardous air pollutants. Area source is defined in the Clean Air Act as "any stationary source of hazardous air pollutants that is not a major source". This encompasses a broad array of sources that individually or as a group may be found to pose significant risks to public health.

Under section 112(k) of the Clean Air Act, EPA is required to develop a strategy that identifies at least 30 HAP that pose the greatest threat to public health in urban areas, and the source categories that account for 90% of the emissions of these HAP. EPA is charged with identifying actions that will reduce the incidence of cancer attributable to these emissions by 75%. EPA must develop standards and ensure that area sources are in compliance with these standards by November 1999.

The strategy that is already being developed by EPA is the implementation of Generally Available Control Technology (GACT) standards for area sources as defined under 112(d)(5) of the Clean Air Act. Eight categories of area sources have already been listed and EPA is in the process of developing GACT standards for these sources. EPA has currently deferred implementing the operating permit program for area sources and may permanently exempt some area source categories from federal permitting requirements. However, these sources must still comply

with the control technology or emission standards developed for the applicable source category.

The rule pertaining to area sources recognize the formative status of the area source program and provide a mechanism for adopting EPA's strategy as it is developed. This rule allows for adopting GACT standards as they are promulgated by EPA.

The Department solicited comment on the proposed rules which would defer or exempt area sources from permit requirements, and on the idea of adding a process to identify source categories of concern not identified by the EPA.

Comments received indicated a real interest on the part of the public in regulating area sources, and concern that these sources might not be required to have permits. A number of commentators did not understand that, although permit requirements were being deferred, these sources would still have to comply with any promulgated GACT standards which applied to them. On the other hand the business community felt that giving the Department the authority to regulate sources not regulated by the EPA was going beyond the minimum federal requirements.

The Department believes that, collectively, non-major sources of hazardous air pollutants have a significant adverse impact on air quality and that reduction of emissions from these sources is appropriate and consistent with the Department's mission. The Federal Operating Permit rules make it clear that area sources are required to comply with any GACT standards promulgated by the EPA therefore the rule language has been significantly revised to make it clear that these substantive control standards will still apply.

This rule, however, continues to defer federal operating permit requirements for these sources because the Department feels it is essential to make sure it has implementation of major source permitting in hand before taking on the tasks associated with area source permitting. However, within 5 years of the date of approval of the program, after gaining experience with the Title V program, the Department will re-consider permitting of area sources.

Because area sources are of concern, and because of concern that the EPA process will not result in adequate control of area sources in a reasonable amount of time, the rule provides a framework for adopting state area source control standards. If standards are developed they

could be implemented through either federal operating permits or the ACDP program.

13. Accidental Release Prevention

OAR-32-5400 defines the requirements and responsibilities of Oregon's industrial sources that store, transport, or use in production one or more of the Table 3 toxic or flammable substances. This list has been constructed by the EPA based on the severity of any acute adverse health effects associated with accidental release of any of the listed chemicals, the likelihood of an accidental release, and the potential magnitude of human exposure to an accidental release.

The EPA is also required by the FCAA to promulgate regulations and guidance by November 1993 to provide for the prevention and detection of accidental releases. At that time they will specify the form and manner in which plans will be registered and submitted. This rule requires the owner or operator of any Oregon major industrial source to submit an engineering analysis, or Risk Management Plan (RMP), for the facility. The rule contains general, not specific, requirements for these plans to identify the potential public health hazards, and risk management procedures designed to prevent such accidents. Additionally, these Risk Management Plans are required to detail emergency response procedures so as to enable the source to respond effectively in the event of an accidental chemical release. As additional EPA guidance becomes available, the Department will coordinate with other State and Federal Agencies in the implementation of the Accidental Release Prevention program.

Once the federal rules are promulgated, sources to which this rule applies will be required to comply within the time period specified in EPA's rules. If a substance is added to the list which makes this rule applicable to a source, or a source begins to have greater than the threshold quantity of any of the listed chemicals on-site, then the source will be required to comply according to EPA's compliance provisions.

DIVISION 28**Stationary Source Air Pollution Control
and Permitting Procedures****Purpose and Application**

340-28-001 [Renumbered to OAR 340-30-400]

Exclusions

340-28-003 [Renumbered to OAR 340-30-410]

Definitions

340-28-005 [DEQ 61, f. 2-5-73, ef. 12-25-73; DEQ 88, f. 4-3-75, ef. 4-3-75(Temp), 4-25-75(Perm); DEQ 123, f. & ef. 10-20-76, Repealed by DEQ]

Open Outdoor Fires - General

340-28-010 [DEQ 61, f. 12-5-73, ef. 12-25-73; Repealed by DEQ 123, f. & ef. 10-20-76]

Open Outdoor Fires - Domestic

340-28-015 [DEQ 61, f. 12-5-73, ef. 12-25-73; DEQ 88, f. 4-3-75, ef. 4-3-75(Temp), ef. 4-25-75(Perm); Repealed by DEQ 123, f. & ef. 10-20-76]

Open Outdoor Fires - Land Clearing

340-28-020 [DEQ 61, f. 12-5-73, ef. 12-25-73; Repealed by DEQ 123, f. & ef. 10-20-76]

Incinerators and Refuse Burning Equipment

340-28-025 [Renumbered to OAR 340-30-420]

Concealment and Masking of Emissions

340-28-030 [Renumbered to OAR 340-30-430]

Effective Capture of Air Contaminant Emissions

340-28-040 [Renumbered to OAR 340-30-440]

Odor Control Measures

340-28-045 [Renumbered to OAR 340-30-450]

Storage and Handling of Petroleum Products

340-28-050 [Renumbered to OAR 340-30-460]

Ships

340-28-055 [Renumbered to OAR 340-30-470]

Upset Condition

340-28-060 [Renumbered to OAR 340-30-480]

Emission Standards - General

340-28-065 [Renumbered to OAR 340-30-490]

Visible Air Contaminant Standards

340-28-070 [Renumbered to OAR 340-30-500]

Particulate Matter Weight Standards

340-28-075 [Renumbered to OAR 340-30-510]

Particulate Matter Size Standard

340-28-080 [Renumbered to OAR 340-30-520]

Sulfur Dioxide Emission Limitations

General

Purpose, Application and Organization

340-28-100

- (1) The purpose of this Division is to prescribe air pollution control and permitting procedures which apply to all stationary sources regulated by the Department.
- (2) This Division applies in addition to all other rules of the Environmental Quality Commission. In cases of apparent conflict, the most stringent rule shall apply. The requirements in this Division shall be administered by the Department, except in Lane County, where they shall be administered by the Lane Regional Air Pollution Authority.
- (3) This Division is organized as follows:
 - (a) General Rules, including purpose, application, organization and definitions;
 - (b) Rules applicable to all stationary sources, including information submittal and disclosure, compliance schedules, general control requirements, registration, and Notice of Construction;
 - (c) Rules applicable to sources required to have Air Contaminant Discharge Permits or federal operating permits, including plant site emission limits, sampling, testing, monitoring, excess emissions, and emission statements;
 - (d) Rules applicable to sources required to have Air Contaminant Discharge Permits, including permitting procedures, New Source Review, and fees; and
 - (e) Rules applicable to sources required to have federal operating permits, including permitting procedures and fees.
- (4) Subject to the provision of the rules in this Division, the Regional Authority is designated by the Commission as the permitting agency to implement the federal permit program within its area of jurisdiction. The Regional Authority's program is subject to Department oversight. The requirements and procedures contained in this Division pertaining to the federal operating permit program shall be used by the Regional Authority to implement its permitting program until the Regional Authority adopts superseding rules which are at least as restrictive as state rules.

Definitions

340-28-110 As used in this Division and unless otherwise required by context:

- (1) "Act" or "FCAA" means the Federal Clean Air Act, Public Law 88-206 as last amended by Public Law 101-549.
- (2) "Actual emissions" means the mass rate of emissions of a

pollutant from an emissions source during a specified time period. Actual emissions shall be directly measured with a continuous monitoring system or calculated using a verified emission factor in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the selected time period.

- (a) {In general,} For purposes of determining actual emissions as of the baseline period:

(A) Except as provided in paragraphs (B) and (C) of this subsection, actual emissions {as of the baseline period} shall equal the average rate at which the source actually emitted the pollutant during a baseline period and which is representative of normal source operation. 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 emissions source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source. (Renumbered from OAR 340-20-305(1))

(b) For purposes of determining actual emissions for Emission Statements under OAR 340-28-1500 through 340-28-1520, and Major Source Interim Emission Fees under OAR 340-28-2400 through 340-28-2550, actual emissions include, but are {"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. (Renumbered from OAR 340-20-460(1))

(c) For purposes of determining actual emissions in the calculation of fees for a federal operating permit program source, actual emissions shall equal the actual rate of emissions in tons per year of any regulated air pollutant emitted from the source over the preceding calendar year or any other period determined by the Department or Lane Regional Air Pollution Authority to be representative of normal source operation and consistent with the fee schedule.

(3) "Affected source" means a source that includes one or more affected units that are subject to emission reduction requirements or limitations under Title IV of the FCAA.

(4) "Affected States" mean all States:

(a) Whose air quality may be affected by a proposed permit, permit modification or permit renewal and that are contiguous to Oregon; or

(b) That are within 50 miles of the permitted source.

(5) "Aggregate insignificant emissions" means the annual

actual emissions of any regulated air pollutant as defined in OAR 340-28-110, for any federal operating permit major source, including the usage of exempt mixtures, up to the lowest of the following applicable level:

- (a) One ton for each criteria pollutant;
- (b) 500 pounds for PM₁₀ in a PM₁₀ nonattainment area;
- (c) The lesser of the amount established in OAR 340-32-4500, Table 3, or 1,000 pounds for each Hazardous Air Pollutant;
- (d) An aggregate of 5,000 pounds for all Hazardous Air Pollutants.

(6) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.

(7) ~~["Permit" or]~~ "Air Contaminant Discharge Permit" or "ACDP" means a written permit issued, renewed, amended, or revised by the Department, pursuant to OAR ~~[340-20-140]~~ 340-28-1700 through ~~[340-20-175]~~ 340-28-1790 and includes the application review report. (Renumbered from OAR 340-20-520(17))

(8) "Applicable requirement" means all of the following as they apply to emissions units in a federal operating permit program source, including requirements that have been promulgated or approved by the EPA through rule making at the time of issuance but have future-effective compliance dates:

- (a) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by the EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR Part 52;
- (b) Any standard or other requirement adopted under OAR 340-20-047 of the State of Oregon Clean Air Act Implementation Plan, that is more stringent than the federal standard or requirement which has not yet been approved by the EPA, and other state-only enforceable air pollution control requirements;
- (c) Any term or condition in an ACDP, OAR 340-28-1700 through 340-28-1790, issued before a federal operating permit application is submitted for the source including any term or condition of any preconstruction permits issued pursuant to OAR 340-28-1900 through 340-28-2000 (New Source Review);
- (d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-28-800 through 340-28-820, issued before a federal operating permit application is submitted for the source;
- (e) Any standard or other requirement under section 111 of the Act, including section 111(d);
- (f) Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act;
- (g) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;
- (h) Any requirements established pursuant to section 504(b)

- or section 114(a)(3) of the Act;
- (i) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;
 - (j) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;
 - (k) Any standard or other requirement for tank vessels, under section 183(f) of the Act;
 - (l) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;
 - (m) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a federal operating permit; and
 - (n) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the Act.
- (9) "Assessable Emission" means a unit of emissions for which the major source owner or operator will be assessed a fee. It includes an emission of a pollutant as defined in OAR ~~340-20-530~~340-28-2420 from one emission point and from an area within a major source. For routine process emissions, emissions of each pollutant in OAR ~~340-20-530~~340-28-2420 from each emission point included in an ~~Air Contaminant Discharge Permit~~ACDP shall be an assessable emission. (Renumbered from OAR 340-20-520(2))
- (10) "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. (Renumbered from OAR 340-20-225(2))
- (11) "Baseline Emission Rate" means the average actual emission rate during the baseline period. Baseline emission rate shall not include increases due to voluntary fuel switches or increased hours of operation that have occurred after the baseline period. (Renumbered from OAR 340-20-305(2))
- (12) "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation. (Renumbered from OAR 340-20-305(3))
- (13) "Best Available Control Technology~~+~~ or "BACT~~+~~" means

an emission limitation, including, but not limited to, 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 Pollutant. 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. (Renumbered from OAR 340-20-225(4))

(14) "Calculated Emissions" as used in OAR 340-28-2400 through 340-28-2550 means procedures used to estimate emissions for the 1991 calendar year. (Renumbered from OAR 340-20-520(5))

(15) "Categorically insignificant activity" means one of the following Departmentally approved activities:

- evaporative and tail pipe emissions from on-site motor vehicle operation;
- natural gas and distillate oil space heating rated at less than 10 million British Thermal Units/hour;
- office activities;
- food service activities;
- janitorial activities;
- personal care activities;
- groundskeeping activities;
- on-site laundry activities;
- instrument calibration;
- pharmaceutical packaging;
- fire suppression; and
- blueprint making.

(16) "Certifying individual" means the responsible ~~{corporate official }~~person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement. (Renumbered from OAR 340-20-460(2))

(17) "CFR" means Code of Federal Regulations.

(18) "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. (Renumbered from OAR 340-20-225(5))

(19) "Commence" or "commencement" 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. (Renumbered from OAR 340-20-225(6))
- (20) "Commission" means Environmental Quality Commission. (Renumbered from OAR 340-20-145(2))
- (21) "Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate. (Renumbered from OAR 340-20-520(3))
- (22) "Construction" as used in OAR 340-28-1900 through 340-28-2000 and this rule means any physical change including, but not limited to, 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. (Renumbered from OAR 340-20-225(7))
- (23) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect calculated emissions and actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems and continuous parameter monitoring systems. (Renumbered from OAR 340-20-520(4))
- (24) "Department"
- (a) as used in OAR 340-28-100 through 340-28-2000 and OAR 340-28-2400 through 340-28-2550 means Department of Environmental Quality; (Renumbered from OAR 340-20-145(1))
- (b) as used in OAR 340-28-2100 through 340-28-2320 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Pollution Authority.
- (25) "Director" means the Director of the Department or the Director's designee.
- (26) "Draft permit" means the version of a federal operating permit for which the Department or Lane Regional Air Pollution Authority offers public participation under OAR 340-28-2290 or the EPA and affected State review under OAR 340-28-2310.
- (27) "Effective date of the program" means the date that the EPA approves the federal operating permit program submitted by the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of the EPA approval of that portion.
- (28) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment,

- lack of preventative maintenance, careless or improper operation, or operator error.
- (29) "Emission" as used in OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees, means a release into the atmosphere of any regulated pollutant or air contaminant. (Renumbered from OAR 340-20-520(7))
- (30) "Emission Estimate Adjustment Factor{~~(-)~~" or "EEAF{~~(-)~~" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor. (Renumbered from OAR 340-20-520(8))
- (31) "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}~~Department approved emission factor. (Renumbered from OAR 340-20-460(3))
- (32) "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or the Administrator of the ~~{U.S. Environmental Protection Agency}~~EPA 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. (Renumbered from OAR 340-20-225(8))
- (33) "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. (Renumbered from OAR 340-20-225(9))
- (34) "Emission Reporting Form" means a paper or electronic form developed by the Department that shall be completed by the permittee to report calculated emissions, actual emissions or permitted emissions for interim emission fee assessment purposes. (Renumbered from OAR 340-20-520(10))
- (35) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant.
- (a) A part of a stationary source is any machine, equipment, raw material, product, or byproduct which produces or emits air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits air pollutants. Except as described in section (d) of this definition, parts and activities may be grouped for purposes of defining an emissions unit provided the following conditions are met:
- (A) the group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply, and
- (B) the emissions from the emissions unit are quantifiable.
- (b) Emissions units may be defined on a pollutant by pollutant basis where applicable.

- (c) The term emissions unit is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the FCAA.
- (d) Parts and activities shall not be grouped for purposes of determining emissions increases from an emissions unit under OAR 340-28-1930 or OAR 340-28-1940 or for purposes of determining the applicability of any New Source Performance Standard (NSPS).
- (36) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.
- (37) "Event" means ~~any period of~~ excess emissions which arise from the same condition and which occur during a single calendar day or continue into subsequent calendar days. (Renumbered from OAR 340-20-355(1))
- (38) "Excess emissions" means emissions which are in excess of a ~~an~~ Air Contaminant Discharge ~~Permit~~ limit or any applicable air quality rule. (Renumbered from OAR 340-20-355(2))
- (39) "Federal Land Manager" means with respect to any lands in the United States, the Secretary of the federal department with authority over such lands. (Renumbered from OAR 340-20-225(11))
- (40) "Federal operating permit" means any permit covering a federal operating permit program source that is issued, renewed, amended, or revised pursuant to OAR 340-28-2100 through 340-28-2320.
- (41) "Federal operating permit program" means a program approved by the Administrator under 40 CFR Part 70 (last amended by 57 FR 32295, July 21, 1992).
- (42) "Federal operating permit program source" means any source subject to the permitting requirements, OAR 340-28-2100 through 340-28-2320, as provided in OAR 340-28-2110.
- (43) "Final permit" or "permit" means the version of a federal operating permit issued by the Department or Lane Regional Air Pollution Authority that has completed all review procedures required by OAR 340-28-2200 through 340-28-2320.
- (44) "Fugitive Emissions":
- (a) except as used in subsection (b) of this section, mean~~s~~ 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. (Renumbered from OAR 340-20-225(12))
- (b) as used to define a major federal operating permit program source, mean those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- (45) "General permit" means a federal operating permit that meets the requirements of OAR 340-28-2170.
- (46) "Growth Increment" means an allocation of some part of an airshed's capacity to accommodate future new major sources and major modifications of sources. (Renumbered from OAR 340-20-225(13))
- (47) "Immediately" means as soon as possible but in no case more than one hour after the beginning of the excess emission period. (Renumbered from OAR 340-20-355(3))

- (48) "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, insignificant mixture usage, or aggregately insignificant.
- (49) "Insignificant Change" means an off-permit change defined under OAR 340-28-2220(2)(a) to either a significant or an insignificant activity which:
- (a) does not result in a redesignation from an insignificant to a significant activity;
 - (b) does not invoke an applicable requirement not included in the permit; and
 - (c) does not result in emission of regulated air pollutants not regulated by the source's permit.
- (50) "Insignificant Mixture Usage" means use, consumption, or generation of chemical mixtures containing not more than 1% by weight of any chemical or compound regulated under Division 20 through 32 of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens.
- (51) "Interim Emission Fee" means \$13 per ton for each assessable emission subject to emission fees under OAR ~~{340-20-530}~~340-28-2420 for calculated, actual or permitted emissions released during calendar years 1991 and 1992. (Renumbered from OAR 340-20-520(12))
- (52) "Large Source" as used in OAR 340-28-1400 through 340-28-1450 means any stationary source whose actual emissions or potential controlled emissions while operating full-time at the design capacity are equal to or exceed 100 tons per year of any regulated air pollutant, or which is subject to a National Emissions Standard for Hazardous Air Pollutants (NESHAP). Where ~~{plant site emission limits ({PSEL})}~~g have been incorporated into the ~~{Air Contaminant Discharge Permit}~~ACDP, the PSEL shall be used to determine actual emissions. (Renumbered from OAR 340-20-355(4))
- (53) "Late Payment" means a~~{n interim emission}~~ fee which is postmarked after the due date. (Renumbered from OAR 340-20-520(13))
- (54) "Lowest Achievable Emission Rate~~{ (LAER)}~~" or 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 (NSPS) or standards for hazardous air pollutants. (Renumbered from OAR 340-20-225(14))
- (55) "Major Modification" as used in this Division 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)}~~OAR 340-28-110) 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}~~ shall take into account all accumulated increases and decreases in actual emissions occurring at the source since January 1, 1978, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations for that pollutant, whichever time is more recent. If accumulation of emission increases results in a net significant emission rate increase, the modifications causing such increases become subject to the New Source Review requirements, including the retrofit of required controls. (Renumbered from OAR 340-20-225(15))

(56) "Major Source":

(a) as used in OAR 340-28-1900 through 340-28-2000, New Source Review, 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 this rule. (Renumbered from OAR 340-20-225(16))

(b) as used in OAR 340-28-2100 through 340-28-2320, Rules Applicable to Sources Required to Have Federal Operating Permits, means any stationary source, or any group of stationary sources that are located on one or more contiguous or adjacent properties and are under common control of the same person (or persons under common control), belonging to a single major industrial grouping or are supporting the major industrial group and that are described in paragraphs (A), (B), or (C) of this subsection. For the purposes of this subsection, a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) or support the major industrial group.

(A) A major source of hazardous air pollutants, which is defined as:

(i) For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutants which has been listed pursuant to OAR 340-32-130, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions

from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(ii) For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.

(B) A major stationary source of air pollutants, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any regulated air pollutant, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);
- (xvi) Primary lead smelters;
- (xvii) Fuel conversion plants;
- (xviii) Sintering plants;
- (xix) Secondary metal production plants;
- (xx) Chemical process plants;
- (xxi) Fossil-fuel boilers, or combination thereof, totaling more than 250 million British thermal units per hour heat input;
- (xxii) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) Taconite ore processing plants;
- (xxiv) Glass fiber processing plants;
- (xxv) Charcoal production plants;
- (xxvi) Fossil-fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; or
- (xxvii) All other stationary source categories regulated by a standard promulgated under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category;

(C) A major stationary source as defined in part D of Title I of the Act, including:

- (i) For ozone nonattainment areas, sources with the

potential to emit 100 tpy or more of VOCs or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme"; except that the references in this paragraph to 100, 50, 25, and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

(ii) For ozone transport regions established pursuant to section 184 of the Act, sources with the potential to emit 50 tpy or more of VOCs;

(iii) For carbon monoxide nonattainment areas
(I) that are classified as "serious," and
(II) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the Administrator, sources with the potential to emit 50 tpy or more of carbon monoxide;

(iv) For particulate matter (PM₁₀) nonattainment areas classified as "serious," sources with the potential to emit 70 tpy or more of PM₁₀.

(c) ~~["Major Source" or "Source"]~~ as used in OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees, means a permitted stationary source or group of stationary sources located within a contiguous area and under common control or any stationary facility or source of air pollutants which directly emits, or is permitted to emit:

(~~a~~)A) One hundred tons per year or more of any regulated pollutant, or
(~~b~~)B) Fifty tons per year or more of a ~~{Volatile Organic Compound}~~ VOC and is located in a serious ozone nonattainment area. (Renumbered from OAR 340-20-520(14))

(57) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process. (Renumbered from OAR 340-20-520(15))

(58) "Nitrogen Oxides ~~[(NO_x)]~~" or "NO_x" means all oxides of nitrogen except nitrous oxide. (Renumbered from OAR 340-20-460(4))

(59) "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 EPA. (Renumbered from OAR 340-20-225(17))

(60) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions. (Renumbered from OAR 340-20-305(4))

(61) "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. (Renumbered from OAR 340-20-225(18))
- (62) "Ozone Season" means the contiguous 3 month period of the year during which ozone exceedances typically occur (i.e., June, July, and August). (Renumbered from OAR 340-20-460(6))
- (63) "Particulate Matter~~{Emissions}~~" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by an applicable reference method~~{s}~~ in accordance with the Department's Source Sampling Manual, (January, 1992). (Renumbered from OAR 340-20-225(19))
- (64) "Permit" means an Air Contaminant Discharge Permit or a federal operating permit issued pursuant to this Division.
- (65) "Permit modification" means a revision to a permit that meets the applicable requirements of OAR 340-28-1700 through 340-28-1790, OAR 340-28-1900 through 340-28-2000, or OAR 340-28-2240 through 340-28-2260.
- (66) "Permit revision" means any permit modification or administrative permit amendment.
- (67) "Permitted Emissions" as used in OAR 340-28-2400 through 340-28-2550 means each assessable emission portion of the ~~{Plant Site Emission Limit}~~PSEL. (Renumbered from OAR 340-20-520(18))
- (68) "Permittee" means the owner or operator of the facility, in whose name the operation of the source is authorized by the ~~{Air Contaminant Discharge Permit}~~ACDP or the federal operating permit. (Renumbered from OAR 340-20-355(5))
- (69) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever. (Renumbered from OAR 340-20-145(3))
- (70) "Plant Site Emission Limit~~{-}~~" or "PSEL~~{-}~~" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source. The PSEL for a major source may consist of more than one assessable emission. (Renumbered from OAR 340-20-305(5))
- (71) "PM₁₀~~{Emissions}~~"
- (a) when used in the context of emissions, means ~~{emissions of}~~ finely divided solid or liquid material, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by an applicable reference method~~{s}~~ in accordance with the Department's Source Sampling Manual~~{-}~~ (January, 1992); (Renumbered from OAR 340-20-520(21))
- (b) when used in the context of ambient concentration, means airborne finely divided solid or liquid material with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured in accordance with 40 CFR Part 50, Appendix J (July, 1992).
- (72) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit

an air 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 is enforceable by the Administrator. This definition does not alter or affect the use of this term for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.

- (73) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner. (Renumbered from OAR 340-20-355(6))
- (74) "Proposed permit" means the version of a federal operating permit that the Department or Lane Regional Air Pollution Authority proposes to issue and forwards to the Administrator for review in compliance with OAR 340-28-2310.
- (75) "Regional Authority" means Lane Regional Air Pollution Authority. (Renumbered from OAR 340-20-145(5))
- (76) "Regulated air pollutant" or "Regulated Pollutant":
(a) as used in OAR 340-28-100 through 340-28-2320 means:
(A) Nitrogen oxides or any VOCs;
(B) Any pollutant for which a national ambient air quality standard has been promulgated;
(C) Any pollutant that is subject to any standard promulgated under section 111 of the Act;
(D) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act; or
(E) Any pollutant listed under OAR 340-32-130 or OAR 340-32-5400.
~~{"Regulated Pollutant"}~~ (b) as used in OAR 340-28-2400 through 340-28-2550 means PM₁₀, Sulfur Dioxide (SO₂), Oxides of Nitrogen (NO_x), Lead (Pb), ~~{Volatile Organic Compounds (VOC)}~~, and Carbon Monoxide (CO); and any other pollutant subject to a New Source Performance Standard (NSPS) such as Total Reduced Sulfur (TRS) from kraft pulp mills and Fluoride (F) from aluminum mills. (Renumbered from OAR 340-20-520(22))
- (77) "Renewal" means the process by which a permit is reissued at the end of its term.
- (78) "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~~ shall utilize municipal solid waste to provide 50% or more of the heat input to be considered a resource recovery facility. (Renumbered from OAR 340-20-225(23))
- (79) "Responsible official" means one of the following:
(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized

- representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
- (A) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - (B) the delegation of authority to such representative is approved in advance by the Department or Lane Regional Air Pollution Authority;
- (b) For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - (c) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this Division, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of the EPA); or
 - (d) For affected sources:
 - (A) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
 - (B) The designated representative for any other purposes under the federal operating permit program.
- (80) "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~~ shall 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. (Renumbered from OAR 340-20-225(24))
- (81) "Section 111" means that section of the FCAA that includes Standards of Performance for New Stationary Sources (NSPS).
- (82) "Section 111(d)" means that subsection of the FCAA that requires states to submit plans to the EPA which establish standards of performance for existing sources and provides for the implementation and enforcement of such standards.
- (83) "Section 112" means that section of the FCAA that contains regulations for Hazardous Air Pollutants (HAP).
- (84) "Section 112(b)" means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated.
- (85) "Section 112(d)" means that subsection of the FCAA that directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when

- establishing the emission standards.
- (86) "Section 112(e)" means that subsection of the FCAA that directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.
- (87) "Section 112(r)(7)" means that subsection of the FCAA that requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.
- (88) "Section 114(a)(3)" means that subsection of the FCAA that requires enhanced monitoring and submission of compliance certifications for major sources.
- (89) "Section 129" means that section of the FCAA that requires the EPA to establish emission standards and other requirements for solid waste incineration units.
- (90) "Section 129(e)" means that subsection of the FCAA that requires solid waste incineration units to obtain federal operating permits.
- (91) "Section 182(f)" means that subsection of the FCAA that requires states to include plan provisions in the State Implementation Plan for NO_x in ozone nonattainment areas.
- (92) "Section 182(f)(1)" means that subsection of the FCAA that requires states to apply those plan provisions developed for major VOC sources and major NO_x sources in ozone nonattainment areas.
- (93) "Section 183(e)" means that subsection of the FCAA that requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.
- (94) "Section 183(f)" means that subsection of the FCAA that requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.
- (95) "Section 184" means that section of the FCAA that contains regulations for the control of interstate ozone air pollution.
- (96) "Section 302" means that section of the FCAA that contains definitions for general and administrative purposes in the Act.
- (97) "Section 302(j)" means that subsection of the FCAA that contains definitions of "major stationary source" and "major emitting facility."
- (98) "Section 328" means that section of the FCAA that contains regulations for air pollution from outer continental shelf activities.
- (99) "Section 408(a)" means that subsection of the FCAA that contains regulations for the Title IV permit program.
- (100) "Section 502(b)(10) change" means a change that contravenes an express permit term but is not a change that:
- (a) would violate applicable requirements;
 - (b) would contravene federally enforceable permit terms and conditions that are monitoring, recordkeeping, reporting, or compliance certification requirements; or
 - (c) is a Title I modification.
- (101) "Section 504(b)" means that subsection of the FCAA that states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.

(102) "Section 504(e)" means that subsection of the FCAA that contains regulations for permit requirements for temporary sources.

(103) "Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than those set out in Table 311. For sources of ~~Volatile Organic Compounds (VOCs)~~, 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. (Renumbered from OAR 340-20-225(26))

~~Table 311~~
~~(OAR 340-20-225)~~ OAR 340-28-110

Significant 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

(Renumbered from OAR 340-20-225(25))

(104) "Significant emission rate" means:
(a) Emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act:

~~Table 4112~~
Significant Emission Rates for Pollutants
Regulated Under the Clean Air Act

Significant Pollutant	Emission Rate
(A) Carbon Monoxide	100 tons/year
(B) Nitrogen Oxides	40 tons/year
(C) Particulate Matter	25 tons/year
(i) TSP	25 tons/year
(D) PM₁₀	15 tons/year
(E) Sulfur Dioxide	40 tons/year
(F) Volatile Organic Compound (VOCs)	40 tons/year
(G) Lead	0.6 ton/year
(H) Mercury	0.1 ton/year
(I) Beryllium	0.0004 ton/year
(J) Asbestos	0.007 ton/year
(K) Vinyl Chloride	1 ton/year
(L) Fluorides	3 tons/year
(M) Sulfuric Acid Mist	7 tons/year
(N) Hydrogen Sulfide	10 tons/year
(O) Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(P) Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

NOTE: For the Medford-Ashland Air Quality Maintenance Area, and the Klamath Falls Urban Growth Area, the Significant Emission Rate for

particulate matter is defined in Table ~~{2}3~~.

- (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 ~~{3}1~~).

Table ~~{2}3~~
~~{(OAR 340-20-225)}~~ OAR 340-28-110

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

Emission Rate

Air Contaminant	Annual		Day		Hour	
	Kilograms	(tons)	Kilogram	(lbs)	kilogram	(lbs)
Particulate Matter or PM ₁₀ *	4,500	(5.0)	23	(50.0)	4.6	(10.0)

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~~ shall 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 owners or operators 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.

- (105) "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~~ shall 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. (Renumbered from OAR 340-20-225(27))
- (106) "Small Source" means any stationary source with a regular ~~{Air Contaminant Discharge Permit}~~ ACDP (not a letter permit or a minimal source permit) or a federal operating permit which is not classified as a large source. (Renumbered from OAR 340-20-355(7))
- (107) "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).~~ (Renumbered from OAR 340-20-225(28))

(108) "Source category":

- (a) except as used in OAR 340-28-2400 through 340-28-2550, 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}~~ the Standard Industrial Classification ~~{(SIC)}~~ Manual, (U.S. Office of Management and Budget, 1987). (Renumbered from OAR 340-20-460(9)) ~~"Source Category"~~
- (b) as used in OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees, means a group of major sources determined by the Department to be using similar raw materials and having equivalent process controls and pollution control equipment. (Renumbered from OAR 340-20-520(23))
- (109) "Source Test" means the average of at least three test runs during operating conditions representative of the period for which emissions are to be determined, conducted in accordance with the Department's Source Sampling Manual or other Department approved methods. (Renumbered from OAR 340-20-520(24))
- (110) "Startup" and "shutdown" means that time during which an air contaminant source or emission-control equipment is brought into normal operation or normal operation is terminated, respectively. (Renumbered from OAR 340-20-355(8))
- (111) "Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant.
- (112) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars. (Renumbered from OAR 340-20-520(25))
- (113) "Synthetic minor source" means a source which would be classified as a major source under OAR 340-28-110, but for physical or operational limits on its potential to emit air pollutants contained in an ACDP issued by the Department under OAR 340-28-1700 through 340-28-1790.
- (114) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:
- (a) a major modification subject to OAR 340-28-1930, Requirements for Sources in Nonattainment Areas;
 - (b) a major modification subject to OAR 340-28-1940, Requirements for Sources in Attainment or Unclassified Areas (Prevention of Significant Deterioration);
 - (c) a change which is subject to a New Source Performance Standard under Section 111 of the FCAA; or
 - (d) a modification under Section 112 of the FCAA.
- (115) "Total Reduced Sulfur{ } or "TRS{ }" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide

- (H₂S). (Renumbered from OAR 340-20-520(26))
- (116) "Unavoidable" or "could not be avoided" means events which are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment. (Renumbered from OAR 340-20-355(9))
- (117) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment which may cause an excess emission. (Renumbered from OAR 340-20-355(10))
- (118) "Verified Emission Factor" means an emission factor approved by the Department and developed for a specific major source or source category and approved for application to that major source by the Department. (Renumbered from OAR 340-20-520(27))
- (119) "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. (Renumbered from OAR 340-20-225(29))
- (120) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.
- (a) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity: Methane; ethane; methylene chloride (dichloromethane); 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 2 (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes:
- (A) Cyclic, branched, or linear, completely fluorinated alkanes;
- (B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
- (C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
- (D) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- (b) For purposes of determining compliance with emissions limits, VOC will be measured by an applicable reference method in accordance with the Department's Source Sampling Manual, January, 1992. Where such a method

also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds, as listed in subsection (a), may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the Department.

- (c) As a precondition to excluding these compounds, as listed in subsection (a), as VOC or at any time thereafter, the Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Department, the amount of negligibly-reactive compounds in the source's emissions.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from OAR 340-20-033.04; 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; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; AQ 14, f. & ef. 1-23-92; AQ 23, f. & ef. 11-12-92; Renumbered from OAR 340-20-145; Renumbered from OAR 340-20-225; Renumbered from OAR 340-20-305; Renumbered from OAR 340-20-355; Renumbered from OAR 340-20-460; Renumbered from OAR 340-20-520

Rules Applicable to All Stationary Sources

Applicability

340-28-200 Unless these rules specify otherwise, OAR 340-28-200 through 340-28-820 shall apply to all stationary sources in the state.

Request for Information

340-28-300 All sources subject to OAR 340-28-100 through 340-28-2550 shall provide in a reasonably timely manner any and all information that the Department may reasonably require for the purpose of regulating stationary sources. Such information may be required on a one-time, periodic, or continuous basis and may include, but is not limited to, information necessary to:

- (1) issue a permit and ascertain compliance or noncompliance with the permit terms and conditions;
- (2) ascertain applicability of any requirement;
- (3) ascertain compliance or noncompliance with any applicable requirement; and
- (4) incorporate monitoring, recordkeeping, reporting, and compliance certification requirements into a permit.

Information Exempt From Disclosure

340-28-400

- (1) Pursuant to the provisions of ORS 192.410 to 192.505, all information submitted to the Department under OAR 340-28-100 through 340-28-2550 shall be presumed to be subject to inspection upon request by any person unless such information is determined to be exempt from disclosure pursuant to OAR 340-28-400(2) or (3) of this rule.
- (2) If an owner or operator claims that any writing, as that term is defined in ORS 192.410(5), is confidential or otherwise exempt from disclosure, in whole or in part, the

owner or operator shall comply with the following procedures:

- (a) The writing shall be clearly marked with a request for exemption from disclosure. For a multi-page writing, each page shall be so marked.
 - (b) The owner or operator shall state the specific statutory provision under which it claims exemption from disclosure and explain why the writing meets the requirements of that provision.
 - (c) For writings that contain both exempt and non-exempt material, the proposed exempt material shall be clearly distinguishable from the non-exempt material. If possible, the exempt material shall be arranged so that it is placed on separate pages from the non-exempt material.
- (3) For a writing to be considered exempt from disclosure as a "trade secret," it shall meet all of the following criteria:
- (a) The information shall not be patented;
 - (b) It shall be known only to a limited number of individuals within a commercial concern who have made efforts to maintain the secrecy of the information;
 - (c) It shall be information which derives actual or potential economic value from not being disclosed to other persons; and
 - (d) It shall give its users the chance to obtain a business advantage over competitors not having the information.

Registration

Registration in General

~~{340-20-005}~~340-28-500 Any air contaminant source not subject to the ~~{Air Contaminant Discharge Permit}~~ACDP rules, OAR ~~{340-20-140}~~340-28-1700 through ~~{340-20-185}~~340-28-1790, or the federal operating permit program rules, OAR 340-28-2100 through 340-28-2320 shall register with the Department upon request pursuant to OAR ~~{340-20-005}~~340-28-500 through ~~{340-20-015}~~340-28-520.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-005

Registration Requirements

- ~~{340-20-010}~~340-28-510
- (1) Registration shall be completed within 30 days following the mailing date of the request by the Department.
 - (2) Registration shall be made on forms furnished by the Department and completed by the owner, lessee of the source, or agent.
 - (3) The following information shall be reported by registrants:
 - (a) Name, address, and nature of business;
 - (b) Name of local person responsible for compliance with

- these rules;
- (c) Name of person authorized to receive requests for data and information;
 - (d) A description of the production processes and a related flow chart;
 - (e) A plot plan showing the location and height of all air contaminant sources. The plot plan shall also indicate the nearest residential or commercial property;
 - (f) Type and quantity of fuels used;
 - (g) Amount, nature, and duration of air contaminant emissions;
 - (h) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
 - (i) Any other information requested by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
 Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93, Renumbered from OAR 340-20-010

Re-registration

~~{340-20-015}~~340-28-520

- (1) Once a year upon the annual date of registration, a person responsible for an air contaminant source shall reaffirm in writing the correctness and current status of the information furnished to the Department.
- (2) Any change in any of the factual data reported under OAR ~~{340-20-010}~~340-28-510(3) shall be reported to the Department, at which time re-registration may be required on forms furnished by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
 Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-015

Highest and Best Practicable Treatment and Control Required

~~{340-20-001}~~340-28-600 Notwithstanding the general and specific emission standards and regulations contained in this Division, the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of new sources of air contamination, particularly those located in areas with existing high air quality, the degree of treatment and control provided shall be such that degradation of existing air quality is minimized to the greatest extent possible.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~EQC under

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; AQ 1-1993, f. & ef. 3-9-93; Renumbered
from 340-20-001

Compliance Schedules

~~{340-20-032}~~340-28-700

- (1) The Department shall attempt to encourage voluntary cooperation of all persons responsible for an air contamination source, as defined by ORS 468A.005(4). To facilitate this cooperation and provide for a progressive program of air pollution control, the Department may negotiate with such persons a schedule of compliance. The schedule will set forth the dates and terms and conditions by which the person responsible for an air contamination source shall comply with applicable air quality rules or statutes:
 - (a) The schedule may be in lieu of a hearing and shall be in writing and signed by the Director of the Department or his designated officer and an authorized agent of the person responsible for the air contamination source. After the schedule is executed by both parties, it shall be confirmed by order of the Department;
 - (b) Compliance schedules providing for final compliance at a date later than 18 months from the date of execution shall contain requirements for periodic reporting and increments of progress toward compliance, at intervals of less than 18 months;
 - (c) No compliance schedule shall allow emissions on a permanent basis in excess of applicable standards and rules.
- (2) In the event a negotiated schedule of compliance cannot be established, the Department may set a show cause hearing as provided by ORS 468.090 at a date and time designated as to why an order implementing a schedule proposed by the Department should not be adopted, or take such other authorized action as may be warranted.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; AQ 1-1993, f. & ef. 3-9-93, Renumbered
from OAR 340-20-032

Notice of Construction and Approval of Plans

Requirement

~~{340-20-020}~~340-28-800 No person shall construct, install, or establish a new source of air contaminant emission of any class listed in OAR ~~{340-20-025}~~340-28-810(1) and not under the jurisdiction of a regional air quality control authority without first notifying the Department in writing. OAR 340-28-800 through 340-28-820 shall not apply to federal operating permit

program sources.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-020

Scope

~~{340-20-025}~~ 340-28-810

- (1) This regulation shall apply to the following classes of sources of air contaminant emission:
 - a) Air pollution control equipment;
 - (b) Fuel burning equipment rated at 400,000 BTU per hour or greater;
 - (c) Refuse burning equipment rated at 50 pounds per hour or greater;
 - (d) Open burning operations;
 - (e) Process equipment having emission to the atmosphere;
 - (f) Such other sources as the Department may determine to be potentially significant sources of air contamination.
- (2) New construction, installation or establishment includes:
 - (a) Addition to or enlargement or replacement of an air contamination source;
 - (b) A major alteration or modification of an air contamination source that may significantly affect the emission of air contamination.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 37, f. 2-15-72, ef. 3-1-72; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-025

Procedure

~~{340-20-030}~~ 340-28-820

- (1) Notice of Construction. Any person intending to construct, install, or establish a new source of air contaminant emissions of a class listed in OAR ~~{340-20-025}~~ 340-28-810 (1) shall notify the Department in writing on a form supplied by the Department.
- (2) Submission of Plans and Specifications. The Department may within 30 days of receipt of a Notice of Construction require the submission of plans and specifications for air pollution control equipment and facilities and their relationship to the production process. The following information may also be required:
 - (a) Name, address, and nature of business;
 - (b) Name of local person responsible for compliance with these rules;
 - (c) Name of person authorized to receive requests for data and information;
 - (d) A description of the production processes and a related flow chart;
 - (e) A plot plan showing the location and height of all air

- contaminant sources. The plot plan shall also indicate the nearest residential or commercial property;
- (f) Type and quantity of fuels used;
 - (g) Amount, nature and duration of air contaminant emissions;
 - (h) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
 - (i) Amount and method of refuse disposal;
 - (j) The Department may require corrections and revisions to the plans and specifications to insure compliance with applicable rules, orders and statutes.
- (3) Notice of Approval:
- (a) The Department shall upon determining that the proposed construction is in the opinion of the Department in accordance with the provisions of applicable rules, order, and statutes, notify the person concerned that construction may proceed;
 - (b) A Notice of Approval to proceed with construction shall not relieve the owner of the obligation of complying with applicable emission standards and orders.
- (4) Order Prohibiting Construction:
- (a) If within 60 days of receipt of the items set forth in section (2) of this rule the Director determines that the proposed construction is not in accordance with applicable statutes, rules, regulations and orders, the Director shall issue an order prohibiting the construction, installation or establishment of the air contamination source. Said order is to be forwarded to the owner by certified mail;
 - (b) Failure to issue such order within the time prescribed herein shall be considered a determination that the proposed construction, installation, or establishment may proceed, provided that it is in accordance with plans, specifications, and any corrections or revisions thereto, or other information, if any, previously submitted, and provided further that it shall not relieve the owner of the obligation of complying with applicable emission standards and orders.
- (5) Hearing. Pursuant to law, a person against whom an order prohibiting construction is directed may within 20 days from the date of mailing of the order, demand a hearing. The demand shall be in writing, state the grounds for hearing, and be mailed to the Director of the ~~Department of Environmental Quality~~ Department. The hearing shall be conducted pursuant to the applicable provisions of ORS Chapter 183.
- (6) Notice of Completion. Within thirty (30) days after any person has constructed an air contamination source as defined under OAR ~~340-20-010~~ 340-28-810(1), ~~he~~ that person shall so report in writing on a form furnished by the Department, stating the date of completion of construction and the date the source was or will be put in operation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 5-1989, f. 4-24-89 & cert. ef. 5-1-89;
AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-030

Rules Applicable to Sources Required to Have
Air Contaminant Discharge Permits
or Federal Operating Permits

Applicability

340-28-900 OAR 340-28-900 through 340-28-1520 apply to stationary sources that are required to obtain ACDPs under OAR 340-28-1720 or federal operating permits under OAR 340-28-2110.

Plant Site Emission Limits

Policy

~~{340-20-300}~~340-28-1000 The Commission recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of air quality permit holders as contained in OAR ~~{340-20-301}~~340-28-1010 through ~~{340-20-320}~~340-28-1060. However, by the adoption of these rules, the Commission does not intend to: limit the use of existing production capacity of any air quality permittee (except for synthetic minor source permittees); cause any undue hardship or expense to any permittee due to the utilization of existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards which are based on emissions related to production. ~~{Plant Site Emission Limits (PSELs)}~~ can be established at levels higher than baseline provided a demonstrated need exists to emit at a higher level and PSD increments and air quality standards would not be violated and reasonable further progress in implementing control strategies would not be impeded.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-300

Requirement for Plant Site Emission Limits

~~{340-20-301}~~340-28-1010

- (1) ~~{Plant Site Emission Limit}~~PSELs~~{(PSEL)}~~ shall be incorporated in all ~~{Air Contaminant Discharge Permit}~~ACDPs and federal operating permits except minimal source permits and special letter permits as a means of managing airshed capacity. All sources subject to regular permit requirements shall be subject to PSELs for all federal and state regulated pollutants except as required by OAR 340-28-1050. PSELs will be incorporated in permits when permits are renewed, modified, or newly issued.
- (2) The emissions limits established by PSELs shall provide the basis for:
 - (a) Assuring reasonable further progress toward attaining

- (b) compliance with ambient air standards;
- (b) Assuring that compliance with ambient air standards and Prevention of Significant Deterioration increments are being maintained;
- (c) Administering offset, banking and bubble programs;
- (d) Establishing the baseline for tracking consumption of Prevention of Significant Deterioration Increments.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-301

Criteria for Establishing Plant Site Emission Limits

~~{340-20-310}~~340-28-1020

- (1) For existing sources, PSELs shall be based on the baseline emission rate for a particular pollutant at a source and shall be adjusted upward or downward pursuant to Department Rules:
 - (a) If an applicant requests that the ~~{Plant Site Emission Limit}~~PSEL be established at a rate higher than the baseline emission rate, the applicant shall:
 - (A) Demonstrate that the requested increase is less than the significant emission rate increase defined in OAR ~~{340-20-225(25)}~~340-28-110; or
 - (B) Provide an assessment of the air quality impact pursuant to procedures specified in OAR ~~{340-20-240}~~340-28-1930 to ~~{340-20-245}~~340-28-1940. A demonstration that no air quality standard or PSD increment will be violated in an attainment area or that a growth increment or offset is available in a nonattainment area shall be sufficient to allow an increase in the PSEL to an amount not greater than the plant's demonstrated need to emit as long as no physical modification of an emissions unit is involved.
 - (b) Increases above baseline emission rates shall be subject to public notice and opportunity for public hearing pursuant to the Department's permit requirements.
- (2) PSELs shall be established on at least an annual emission basis and a short term period emission basis that is compatible with source operation and air quality standards.
- (3) Mass emission limits may be established separately within a particular source for process emissions, combustion emissions, and fugitive emissions.
- (4) Documentation of PSEL calculations shall be available to the permittee.
- (5) For new sources, PSELs shall be based on application of applicable control equipment requirements and projected operating conditions.
- (6) PSELs shall not be established which allow emissions in excess of those allowed by any applicable federal or state regulation or by any specific permit condition unless

specific provisions of OAR ~~{340-20-315}~~340-28-1030 are met.

- (7) PSELS may be changed pursuant to Department rules when:
- (a) Errors are found or better data is available for calculating PSELS;
 - (b) More stringent control is required by a rule adopted by the ~~{Environmental Quality Commission}~~EQC;
 - (c) An application is made for a permit modification pursuant to OAR ~~{340-20-140}~~340-28-1700 through ~~{340-20-185}~~340-28-1790, ~~{Air Contaminant Discharge Permit}~~ACDPs, ~~{and}~~ OAR ~~{340-20-220}~~340-28-1900 through ~~{340-20-276}~~340-28-2000, New Source Review, and approval can be granted based on growth increments, offsets, or available Prevention of Significant Deterioration increments, or OAR 340-28-2100 through 340-28-2320, Rules Applicable to Sources Required to Have Federal Operating Permits; or
 - (d) The Department finds it necessary to initiate modifications of a permit pursuant to OAR 340-14-040, Modification of a Permit or OAR 340-28-2280, Reopenings.

(NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.)

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-310

Alternative Emission Controls (Bubble)

~~{340-20-315}~~340-28-1030 Alternative emission controls may be approved for use within a plant site such that specific mass emission limit rules are exceeded provided that:

- (1) Such alternatives are not specifically prohibited by a permit condition.
- (2) Net emissions for each pollutant are not increased above the ~~{Plant Site Emission Limit}~~PSEL.
- (3) The net air quality impact is not increased as demonstrated by procedures required by OAR ~~{340-20-260}~~340-28-1970, ~~{(}Requirements for Net Air Quality Benefit{)}~~.
- (4) No other pollutants including malodorous, toxic or hazardous pollutants are substituted.
- (5) ~~{Best Available Control Technology (}BACT{)}~~ and ~~{Lowest Achievable Emission Rate (}LAER{)}~~ where required by a previously issued permit and ~~{New Source Performance Standards (}NSPS{)}~~, OAR 340-25-505 through 530, and ~~{National Emission Standards for Hazardous Air Pollutants (}NESHAP{)}~~, OAR 340-25-450 through 340-25-485, where required, are not relaxed.
- (6) Specific mass emission limits are established for each emission unit involved such that compliance with the PSEL can be readily determined.
- (7) Application is made for a permit modification and such modification is approved by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-315

Temporary PSD Increment Allocation

~~340-20-320~~340-28-1040

- (1) PSELS may include a temporary or time-limited allocation against an otherwise unused PSD increment in order to accommodate voluntary fuel switching or other cost or energy saving proposals provided it is demonstrated to the Department that:
 - (a) No ambient air quality standard is exceeded;
 - (b) No applicable PSD increment is exceeded;
 - (c) No nuisance condition is created;
 - (d) The applicant's proposed and approved objective continues to be realized.
- (2) When such demonstration is being made for changes to the PSEL, it shall be presumed that ambient air quality monitoring shall not be required of the applicant for changes in hours of operation, changes in production levels, voluntary fuel switching or for cogeneration projects unless, in the opinion of the Department, extraordinary circumstances exist.
- (3) Such temporary allocation of a PSD increment ~~must~~shall be set forth in a specific permit condition issued pursuant to the Department's Notice and Permit Issuance or Modification Procedures.
- (4) Such temporary allocations ~~must~~shall be specifically time limited and may be recalled under specified notice conditions.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-28-320

Plant Site Emission Limits for Sources of Hazardous Air Pollutants

340-28-1050

- (1) For purposes of establishing PSELS, hazardous air pollutants listed under OAR 340-32-130 or OAR 340-32-5400 shall not be considered regulated pollutants under OAR 340-28-1010 until such time as the Commission determines otherwise.
- (2) The Department may establish PSELS for hazardous air pollutants for the following causes:
 - (a) an owner or operator elects to establish a PSEL for any hazardous air pollutant emitted for purposes of determining emission fees as prescribed in OAR 340-28-2400 through 340-28-2550 or,
 - (b) the source is subject to a hazardous air pollutant

- emission standard, limitation, or control requirement other than Plant Site Emission Limits.
- (3) Procedures for establishing and modifying PSELS for hazardous air pollutant emissions shall be consistent with OAR 340-28-1020 except for the following:
 - (a) a baseline emission rate shall not apply, and
 - (b) the provisions of OAR 340-28-1030 shall not apply.
 - (4) PSELS established for hazardous air pollutants shall not be used for any provisions other than those prescribed in section (2) of this rule.

Plant Site Emission Limits for Insignificant Activities
340-28-1060

- (1) For purposes of establishing PSELS, emissions from categorically insignificant activities listed in OAR 340-28-110 shall not be considered regulated air pollutants under OAR 340-28-1010 until such time as the Commission determines otherwise, except as provided in section (3).
- (2) For purposes of establishing PSELS, emissions from insignificant mixture usage and aggregate insignificant emissions, listed in OAR 340-28-110 shall be considered regulated air pollutants under OAR 340-28-1010.
- (3) For purposes of determining New Source Review or Prevention of Significant Deterioration applicability, OAR 340-28-1900 through 340-28-2000, emissions from insignificant activities shall be considered.

Sampling, Testing and Measurement of
Air Contaminant Emissions

Program

~~[340-20-035]~~340-28-1100 As part of its coordinated program of air quality control and preventing and abating air pollution, the Department ~~{of Environmental Quality}~~ may:

- (1) Require any person responsible for emissions of air contaminants to make or have made tests to determine the type, quantity, quality, and duration of the emissions from any air contamination source.
- (2) Require full reporting of all test procedures and results furnished to the Department in writing and signed by the person or persons responsible for conducting the tests.
- (3) Require continuous monitoring of specified air contaminant emissions and periodic regular reporting of the results of such monitoring.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-035

Stack Heights and Dispersion Techniques

~~[340-20-037]~~340-28-1110

- (1) Title 40, Code of Federal Regulations, Parts 51.100(ff) through 51.100(kk), 51.118, 51.160 through 51.166, as

published on July 1, 1991, is by this reference adopted and incorporated herein, concerning stack heights and dispersion techniques.

- (2) In general, the rule prohibits the use of excessive stack height and certain dispersion techniques when calculating compliance with ambient air quality standards. The rule does not forbid the construction and actual use of excessively tall stacks, nor use of dispersion techniques; it only forbids their use in calculations as noted above.
- (3) The rule has the following general applicability. With respect to the use of excessive stack height, stacks 65 meters high or greater, constructed after December 31, 1970, and major modifications to existing plants after December 31, 1970 with stacks 65 meters high or greater which were constructed before that date, are subject to this rule, with the exception that certain stacks at federally-owned, coal-fired steam electric generating units constructed under a contract awarded before February 8, 1974, are exempt. With respect to the use of dispersion techniques, any technique implemented after December 31, 1970, at any plant is subject to this rule. However, if the plant's total allowable emissions of sulfur dioxide are less than 5,000 tons per year, then certain dispersion techniques to increase final exhaust gas plume rise are permitted to be used when calculating compliance with ambient air quality standards for sulfur dioxide:
 - (a) Where found in the federal rule, the term "reviewing agency" means the Department ~~of Environmental Quality (DEQ)~~, ~~the~~ ~~Regional Air Pollution Authority (LRAPA)~~, or the ~~U.S. Environmental Protection Agency (EPA)~~, as applicable;
 - (b) Where found in the federal rule, the term "authority administering the State Implementation Plan" means ~~DEQ~~ Department, LRAPA, or EPA;
 - (c) The "procedures" referred to in 40 CFR 51.18(1) are the New Source Review procedures at ~~DEQ~~ the Department (OAR ~~340-20-220~~ 340-28-1900 to ~~340-20-276~~ 340-28-2000) or at LRAPA (Title 38), and the review procedures for new, or modifications to, minor sources, at ~~DEQ~~ the Department (OAR ~~340-20-020~~ 340-20-030, ~~340-20-140~~ 340-20-185 340-28-800 to 340-28-820, 340-28-1700 to 340-28-1790) or at LRAPA (Title 34 and OAR 38-045);
 - (d) Where "the state" or "state, or local control agency" is referred to in 40 CFR 51.12(j), it means ~~DEQ~~ the Department or LRAPA;
 - (e) Where 40 CFR 51.1(kk) refers to the prevention of significant deterioration program and cites 40 CFR 51.24, it means the EPA-approved new source review rules of ~~DEQ~~ the Department or LRAPA (see 40 CFR 52.1987), where they cover prevention of significant deterioration;
 - (f) Where found in the federal rule, the terms "applicable state implementation plan" and "plan" refer to the programs and rules of ~~DEQ~~ the Department or LRAPA, as approved by the EPA, or any EPA-promulgated regulations (see 40 CFR Part 52, Subpart MM).

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

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 11-1986, f. & ef. 5-12-86; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-037

Methods

~~{340-20-040}~~340-28-1120

- (1) Any sampling, testing, or measurement performed under this regulation shall conform to methods contained in the Department~~{ of Environmental Quality}~~'s Source Sampling Manual or to recognized applicable standard methods approved in advance by the Department.
- (2) The Department may approve any alternative method of sampling provided it finds that the proposed method is satisfactory and complies with the intent of these regulations and is at least equivalent to the uniform recognized procedures in objectivity and reliability, and is demonstrated to be reproducible, selective, sensitive, accurate and applicable to the program.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-11-70; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-040

Department Testing

~~{340-20-045}~~340-28-1130 The Department, instead of requesting tests and sampling of emissions from the person responsible for an air contamination source, may conduct such tests alone or in conjunction with said person. If the testing or sampling is performed by the Department, a copy of the results shall be provided to the person responsible for the air contamination source.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-045

Records; Maintaining and Reporting

~~{340-20-046}~~340-28-1140

- (1) Upon notification from the Director of the Department~~{ of Environmental Quality}~~, all persons owning or operating a

- stationary air contaminant source within the state shall commence to keep and maintain written records of the nature, type and amounts of emissions from such source and other information as may be required by the Director to determine whether such is in compliance with applicable emission rules, limitations or other control measures.
- (2) The records shall be prepared in the form of a report and submitted to the Department ~~of Environmental Quality~~ on a semi-annual basis, or more frequent basis if requested in writing by the Department, frequent basis is the requested full semi-annual period after the Director's notification to such persons owning or operating a stationary air contaminant source of these record-keeping requirements. Except as may be otherwise provided by rule, semi-annual periods are January 1 to June 30, July 1 to December 31. A more frequent basis for reporting may be required due to noncompliance or to protect human health or the environment.
- (3) The reports required by this rule shall be completed on forms approved by the Department ~~of Environmental Quality~~ and shall be submitted within 30 days after the end of each reporting period.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
 Hist.: DEQ 44(Temp), f. & ef. 5-5-72; DEQ 48, f. 9-20-72, ef. 10-1-72; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-046

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

Enhanced Monitoring and Testing

Reserved: 340-28-1200 through 340-28-1390

Excess Emissions and Emergency Provision

Purpose and Applicability

~~{340-20-350}~~ 340-28-1400 Emissions of air contaminants in excess of applicable standards or permit conditions are considered unauthorized and subject to enforcement action, pursuant to OAR ~~{340-20-360}~~ 340-28-1410 through ~~{340-20-380}~~ 340-28-1460. OAR ~~{340-20-350}~~ 340-28-1400 through ~~{340-20-380}~~ 340-28-1460 apply to any source which emits air contaminants in ~~{violation}~~ excess of any applicable air quality rule or permit condition resulting from the breakdown of air pollution control equipment or operating equipment, process upset, start~~{-}~~up, shut~~{-}~~down, or scheduled maintenance. The purpose of these rules is to:

- (1) Require that, where applicable, all excess emissions be reported by sources to the Department immediately;
- (2) Require sources to submit information and data regarding conditions which resulted or could result in excess

- emissions; ~~and~~
- (3) Identify criteria to be used by the Department for determining whether enforcement action will be taken against an excess emission~~[-]~~; and
- (4) Provide sources an affirmative defense to enforcement when noncompliance with technology-based emission limits is due to an emergency pursuant to OAR 340-28-1460.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from 340-21-065

Planned Startup and Shutdown

~~{340-20-360}~~ 340-28-1410

- (1) ~~{In}~~ For cases where startup or shutdown of a production process or system may result in excess emissions, prior Department authorization shall be obtained of startup/shutdown procedures that will be used to minimize excess emissions. Application for approval of new procedures or modifications to existing procedures shall be submitted and received by the Department in writing at least seventy-two (72) hours prior to the first occurrence of a startup or shutdown event to which these procedures apply, and shall include the following:
- (a) The reasons why the excess emissions during startup and shutdown ~~{could}~~ cannot be avoided;
- (b) Identification of the specific production process or system ~~{causing}~~ that causes the excess emissions;
- (c) The nature of the air contaminants likely to be emitted, and an estimate of the amount and duration of the excess emissions; and
- (d) Identification of specific procedures to be followed which will minimize excess emissions at all times during startup and shutdown.
- (2) Approval of the startup/shutdown procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR ~~{340-20-375}~~ 340-28-1440 (3). Approval of the startup/shutdown procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions which occur are determined by the Department to be avoidable, pursuant to OAR ~~{340-20-380(1)}~~ 340-28-1450.
- (3) Once startup/shutdown procedures are approved, owners or operators shall not be required to notify the Department of a planned startup or shutdown event which may result in excess emissions unless:
- (a) required by permit condition; or
- (b) if the source is located in a nonattainment area for a

pollutant which may be emitted in excess of applicable standards.

- (4) When required by subsection (3)(a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the startup or shutdown event and shall include the date and estimated time and duration of the event.
- (5) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.
- ~~(3)6~~ No startups or shutdowns resulting in excess emissions associated with the approved procedures in ~~section~~ OAR 340-28-1410(2) ~~{of this rule}~~ shall occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM₁₀ Nonattainment Areas.
- ~~(4)7~~ ~~{In cases where notification of a planned startup or shutdown is likely to cause excess emissions has not been provided to the Department 72 hours prior to the event, t}~~ The permittee shall immediately notify the Department by telephone of a startup or shutdown event and shall be subject to the requirements under Upsets and Breakdowns in OAR 340-20-370 OAR 340-28-1430 if the permittee fails to:
- (a) Obtain Department approval of startup/shutdown procedures in accordance with OAR 340-28-1410(1); or
- (b) Notify the Department of a startup or shutdown event which may result in excess emissions in accordance with OAR 340-28-1410(3).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from OAR 340-20-360

Scheduled Maintenance

~~{340-20-365}~~ 340-28-1420

- (1) In cases where it is anticipated that shutdown, by-pass, or operation at reduced efficiency of air pollution control equipment for necessary scheduled maintenance may result in excess emissions, prior Department authorization shall be obtained of procedures that will be used to minimize excess emissions. Application for approval of new procedures or modifications to existing procedures shall be submitted and received by the Department in writing at least seventy-two (72) hours prior to the first occurrence of a maintenance event to which these procedures apply, and shall include the following:
- (a) The reasons explaining the need for maintenance, including why it would be impractical to shut down the source operation during the period, and why the by-pass or reduced efficiency could not be avoided through better scheduling for maintenance or through better operation and maintenance practices;

- (b) Identification of the specific production or emission control equipment or system to be maintained;
 - (c) The nature of the air contaminants likely to be emitted during the maintenance period, and the estimated amount and duration of the excess emissions, including measures such as the use of overtime labor and contract services and equipment, that will be taken to minimize the length of the maintenance period;
 - (d) Identification of specific procedures to be followed which will minimize excess emissions at all times during the scheduled maintenance.
- (2) Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR ~~{340-20-375}~~340-28-1440(3). Approval of the above procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur which are determined by the Department to be avoidable, pursuant to OAR ~~{340-20-380(1)}~~340-28-1450.
- (3) Once maintenance procedures are approved, owners or operators shall not be required to notify the Department of a scheduled maintenance event which may result in excess emissions unless:
- (a) required by permit condition; or
 - (b) if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards.
- (4) When required by subsection (3) (a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the scheduled maintenance event and shall include the date and estimated time and duration of the event.
- (5) The Department may revoke or require modifications to previously approved procedures at any time by written notification to the owner or operator.
- ~~{3+6}~~ No scheduled maintenance associated with the approved procedures in ~~{section}~~OAR 340-28-1420(2) ~~{of this rule}~~, which is likely to result in excess emissions, shall occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM₁₀ Nonattainment Areas.
- ~~{4+7}~~ ~~{In cases where notification of necessary scheduled maintenance likely to cause excess emissions has not been provided to the Department 72 hours prior to the event, t}~~The permittee shall immediately notify the Department by telephone of a maintenance event and shall be subject to the requirements under Upsets and Breakdowns in ~~{OAR 340-20-370}~~OAR 340-28-1430 if the permittee fails to:
- (a) Obtain Department approval of maintenance procedures in

- (b) accordance with OAR 340-28-1420(1); or
Notify the Department of a maintenance event which may
result in excess emissions in accordance with OAR 340-
28-1420(3).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from OAR 340-20-365

Upsets and Breakdowns

~~[340-20-370]~~340-28-1430

- (1) For upsets or breakdowns caused by an emergency and
resulting in emissions in excess of technology-based
standards, the owner or operator may be entitled to an
affirmative defense to enforcement if:
- (a) the Department is notified immediately of the emergency
condition; and
- (b) the owner or operator fulfills requirements outlined in
the Emergency Provision in OAR 340-28-1460.
- (~~1~~2) In the case of all other upsets and breakdowns, the
following requirements apply:
- (a) For large sources, as defined by ~~[OAR 340-20-355(4)]~~OAR
340-28-110, ~~fall~~the first onset per calendar day of
any excess emissions event due to upset or breakdown,
other than those described in OAR 340-28-1430(1),
~~must~~shall be reported to the Department immediately
unless otherwise specified by permit condition. Based
on the severity of the event, the Department will
either require submittal of a written report pursuant
to OAR ~~[340-20-375]~~340-28-1440(1) and (2), or a
recording of the event in the upset log as required in
OAR ~~[340-20-375]~~340-28-1440(3).
- (~~2~~b) Small sources, as defined by ~~[OAR 340-20-355(7)]~~OAR
340-28-110, need not report excess emissions events
due to upset or breakdown immediately unless
otherwise required ~~to do so~~ by: permit condition;
~~or~~ written notice by the Department~~,~~; OAR 340-
28-1430(1)(a); or ~~unless~~if the excess emission is
of a nature that could endanger public health. Based
on the severity of the event, the Department will
either require submittal of a written report
pursuant to OAR ~~[340-20-375]~~340-28-1440(1) and (2),
or a recording of the event in the upset log as
required in OAR ~~[340-20-375]~~340-28-1440(3).
- (3) During any period of excess emissions due to upset or
breakdown, the Department may require that a ~~source~~n
owner or operator immediately proceed to reduce or cease
operation of the equipment or facility until such time as
the condition causing the excess emissions has been
corrected or brought under control. Such action by the
Department would be taken upon consideration of the
following factors:
- (a) Potential risk to the public or environment;
- (b) Whether shutdown could result in physical damage to the
equipment or facility, or cause injury to employees;

- (c) Whether any Air Pollution Alert, Warning, Emergency, or yellow or red woodstove curtailment period exists; or
 - (d) If continued excess emissions were determined by the Department to be avoidable.
- (4) In the event of any on-going period of excess emissions due to upset or breakdown, the ~~source~~ owner or operator shall cease operation of the equipment or facility no later than 48 hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time. The ~~source~~ owner or operator need not cease operation if ~~it~~ he or she can obtain Department's approval of procedures that will be used to minimize excess emissions until such time as the condition causing the excess emissions is corrected or brought under control. Approval of these procedures shall be based on the following information supplied to the Department:
- (a) The reasons why the condition(s) causing the excess emissions cannot be corrected or brought under control. Such reasons shall include but not be limited to equipment availability and difficulty of repair or installation;
 - (b) Information as required in OAR ~~340-20-360~~ 340-28-1410(1)(b), (c), and (d).
- (5) Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR ~~340-20-375~~ 340-28-1440(3). At any time during the period of excess emissions the Department may require the owner or operator to cease operation of the equipment or facility, in accordance with ~~section~~ OAR 340-28-1430(3) ~~of this rule~~. In addition, approval of these procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur that are determined by the Department to be avoidable, pursuant to OAR ~~340-20-380~~ 340-28-1450.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert.ef. 1-2-91; Renumbered from OAR 340-20-370

Reporting Requirements

~~340-20-375~~ 340-28-1440

- (1) For any ~~period of~~ excess emissions event, the Department may require the ~~source~~ owner or operator to submit a written excess emission report for each calendar day of the event. If required, this report shall be submitted within fifteen (15) days of the date of the event ~~and shall include~~ and shall include ~~the~~ the following:
 - (a) The date and time ~~each~~ the event was reported to the Department;

- (b) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction;
- ~~(b)~~(c) Information as described in OAR ~~{340-20-380}~~340-28-1450(1) through (5);
- ~~(e)~~d) The final resolution of the cause of the excess emissions~~{.}~~; and
- (e) Where applicable, evidence supporting any claim that emissions in excess of technology-based limits were due to an emergency pursuant to OAR 340-28-1460.
- (2) Based on the severity of event, the Department may waive the 15 day reporting requirement, and specify either a shorter or longer time period for report submittal. The Department may also waive the submittal of the written report, if in the judgement of the Department, the period or magnitude of excess emissions was minor. In such cases the ~~{source}~~ owner or operator shall record the event in the upset log pursuant to ~~{section}~~ OAR 340-28-1440(3) ~~{of this rule}~~.
- (3) Large and small sources~~{}~~ owners or operators shall keep an upset log of all planned and unplanned excess emissions. The upset log shall include all pertinent information as required in ~~{section}~~ OAR 340-28-1440(1) ~~{of this rule}~~ and shall be kept by the permittee for five (5) calendar years.
- (4) At each annual reporting period specified in a permit, or sooner if required by the Department, the permittee shall submit:
- (a) ~~{a}~~ A copy of {the} upset log entries for the reporting period{.} ~~{Upset logs shall be kept by the permittee for two (2) calendar years}, and~~
- (b) Where applicable, current procedures to minimize emissions during startup, shutdown, or maintenance as outlined in OAR 340-28-1410 and OAR 340-28-1420. The owner or operator shall specify in writing whether these procedures are new, modified, or have already been approved by the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from OAR 340-20-375

Enforcement Action Criteria

~~{340-20-380}~~340-28-1450 In determining if a period of excess emissions is avoidable, and whether enforcement action is warranted, the Department, based upon information submitted by the owner or operator, shall consider whether the following ~~{information}~~ criteria are met:

- (1) Where applicable, the owner or operator submitted a description of any emergency which may have caused emissions in excess of technology-based limits and sufficiently demonstrated, through properly signed, contemporaneous operating logs, upset logs, or other relevant evidence that an emergency caused the excess emissions and that all causes of the emergency were

- identified.
- (~~1~~2) ~~{whether n}~~ Notification occurred immediately pursuant to OAR ~~{340-20-370}~~ 340-28-1430 (1) (a), ~~and~~ (2), or (3).
- ~~(2) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction.~~
- (3) ~~{whether t}~~ The Department was furnished with complete details of the event, ~~f.i.e.,~~ including, but not limited to:
- (a) The date and time of the beginning of the excess emissions event and the duration or best estimate of the time until return to normal operation;
- (b) ~~{t}~~ The equipment involved;
- (c) Steps taken to mitigate emissions and corrective actions taken; and
- (d) ~~{t}~~ The magnitude and duration of each occurrence of excess emissions during the course of an event and the increase over normal rates or concentrations as determined by continuous monitoring or a best estimate (supported by operating data and calculations).
- (4) ~~{whether the amount and duration of the excess emission were limited to the maximum extent practicable during the period of excess emissions.}~~ During the period of the excess emissions event the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit.
- (5) ~~{whether t}~~ The appropriate remedial action was taken.
- (6) ~~{whether t}~~ The event was not due to negligent or intentional operation by the ~~{source} owner or operator~~. For the Department to find that an incident of excess emissions is not due to negligent or intentional operation by the ~~{source} owner or operator~~, the permittee ~~{must}~~ shall demonstrate, upon Department request, that all of the following conditions were met:
- (a) The process or handling equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
- (b) Repairs or corrections were made in an expeditious manner when the operator(s) knew or should have known that emission limits were being or were likely to be exceeded. Expeditious manner may include such activities as use of overtime labor or contract labor and equipment that would reduce the amount and duration of excess emissions;
- (c) The event was not one in a recurring pattern of incidents which indicate inadequate design, operation, or maintenance.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan adopted under OAR 340-20-047.]

[Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from OAR 340-20-380

Emergency Provision

340-28-1460

- (1) Effect of an emergency. An emergency constitutes an affirmative defense to noncompliance with technology-based emission limits if the source meets criteria specified in OAR 340-28-1450(1) through (6).
- (2) The permittee seeking to establish the occurrence of an emergency has the burden of proof.
- (3) This provision is in addition to any emergency or upset provision contained in any applicable requirement.

Emission Statements for VOC and NO_x Sources
in Ozone Nonattainment Areas

Purpose and Applicability

~~[340-20-450]~~ 340-28-1500

- (1) The purpose of these rules is to obtain data on actual emissions of ~~{Volatile Organic Compounds (VOC)}~~ and ~~{nitrogen oxides (NO_x)}~~ from sources in ozone nonattainment areas, in accordance with ~~{Federal Clean Air Act}~~ FCAA 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 NO_x 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, owners or operators of VOC and NO_x sources already subject to the Department's Interim Emission Fee Rules ~~{(}, OAR [340-20-500 to 340-20-660]~~ 340-28-2400 through 340-28-2550, {)} 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 NO_x emissions, to the extent applicable. Owners or operators of other sources shall use current and applicable emission factors and actual production data to estimate and report actual emissions.

Stat. Auth.: ORS Ch. 468A

Hist: AQ 23-1992, f. & ef. 11-12-92; Renumbered from OAR 340-20-450

Definitions

340-20-460 [Renumbered to OAR 340-28-110]

Requirements

~~[340-20-470]~~ 340-28-1510

- (1) Owners or operators ~~{sources}~~ of VOC and NO_x sources 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}~~ owner or operator 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 permit number.
 - (c) Emissions information:
 - (A) Estimated actual VOC and/or NO_x 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) Owners or operators of 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's~~ owner or operator for three (3) calendar years after submittal of the emission statement.

Stat. Auth.: ORS 468A

Hist.: AQ 23-1992, f. & ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-470

Submission of Emission Statement

~~340-20-480~~ 340-28-1520 The owner or operator of any facility meeting the applicability requirements stated in OAR ~~340-20-450~~ 340-28-1500 ~~(must)~~ shall 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 ACDP or federal operating permit.

Stat. Auth.: ORS 468A

Hist.: AQ 23-1992, f. & ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-480

Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits

Applicability

340-28-1600 OAR 340-28-1600 through 340-28-2000 apply to stationary sources that are required to obtain ACDPs under OAR 340-28-1720.

Air Contaminant Discharge Permits

Purpose

~~[340-20-140]~~ 340-28-1700 The purpose of OAR ~~[340-20-140]~~ 340-28-1700 through ~~[340-20-185]~~ 340-28-1790 is to prescribe the requirements and procedures for obtaining ~~[Air Contaminant Discharge Permit]~~ ACDPs pursuant to ORS 468A.040 through 468A.060 and related statutes for stationary sources. OAR 340-28-1700 through 340-28-1790 shall not apply to federal operating permit program sources unless an ACDP is required by OAR 340-28-1720(2), OAR 340-28-1720(4), OAR 340-28-1740, or OAR 340-28-1900(1).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~[Environmental Quality Commission]~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-86; Renumbered from 340-20-033.02; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-140

Notice Policy

~~[340-20-150]~~ 340-28-1710

- (1) It shall be the policy of the Department and the Regional Authority to issue public notice as to the intent to issue an ~~[Air Contaminant Discharge Permit]~~ ACDP allowing at least thirty (30) days for written comment from the public, and from interested State and Federal agencies, prior to issuance of the permit. Public notice shall include the name and quantities of new or increased emissions for which permit limits are proposed, or new or increased emissions which exceed significant emission rates established by the Department.
- (2) In addition to the information required under OAR 340-11-007, public notices for ~~[Air Contaminant Discharge Permit]~~ ACDPs shall contain:
 - (a) If a major source permit, whether the proposed permitted emission would have a significant impact on a Class 1 airshed;
 - (b) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment or nonattainment for that pollutant; and
 - (c) For each major source within an attainment area for which dispersion modeling has been performed an indication of what impact each proposed permitted emission would have on the Prevention of Significant Deterioration Program within that attainment area.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~[Environmental Quality Commission]~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 183, 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.06; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 34-1990, f. 8-20-90, cert. ef. 9-1-90; AQ 1-1993, f. & ef. 3-9-93;

Permit Required

~~{340-20-155}~~340-28-1720

- (1) No person shall construct, install, establish, develop or operate any air contaminant source which is referred to in Table ~~{114}~~, appended hereto and incorporated herein by reference, without first obtaining a permit from the Department or Regional Authority.
- (2) No person shall construct, install, establish, or develop any major source, as defined by OAR 340-28-2110 that will be subject to the federal operating permit program without first obtaining an ACDP from the Department or Regional Authority. Any federal operating permit program source required to have obtained an ACDP prior to construction shall:
 - (a) choose to become a synthetic minor source, OAR 340-28-1740, and remain in the ACDP program; or
 - (b) file a complete application to obtain the federal operating permit within 12 months after initial startup.
- (~~{2}~~3) No person shall modify any source covered by a permit under OAR ~~{340-20-140}~~340-28-1700 through ~~{340-20-185}~~340-28-1790 such that the emissions are significantly increased without first applying for and obtaining a modified permit.
- (4) No person shall modify any source required to be covered by a permit under OAR 340-28-1700 through 340-28-1790 such that the source becomes subject to the federal operating permit program, OAR 340-28-2100 through 340-28-2320 without first applying for and obtaining a modified ACDP. Any federal operating permit program source required to have obtained an ACDP prior to modification shall:
 - (a) choose to become a synthetic minor source, OAR 340-28-1740, and remain in the ACDP program;
 - (b) choose to remain a synthetic minor source, OAR 340-28-1740, and remain in the ACDP program; or
 - (b) file a complete application to obtain the federal operating permit within 12 months after initial startup of the modification.
- (5) No person shall increase emissions above the PSEL or operate in excess of the enforceable condition to limit potential to emit and remain a synthetic minor source without first applying for and obtaining a modified ACDP.
- (~~{3}~~6) No person shall modify any source covered by a permit under OAR ~~{340-20-140}~~340-28-1700 through ~~{340-20-185}~~340-28-1790 and not required to obtain a federal operating permit such that:
 - (a) The process equipment is substantially changed or added to; or
 - (b) The emissions are significantly changed without first notifying the Department.
- (~~{4}~~7) Any ~~{source}~~owner or operator may apply to the Department or Regional Authority for a special letter permit if operating a facility with no, or insignificant, air contaminant discharges. The

determination of applicability of this special permit shall be made solely by the Department or Regional Authority having jurisdiction. If issued a special permit, the application processing fee and/or annual compliance determination fee, provided by OAR ~~340-20-165~~340-28-1750, may be waived by the Department or Regional Authority.

- (~~5~~8) The Department may designate any source as a "Minimal Source" based upon the following criteria:
- (a) Quantity and quality of emissions;
 - (b) Type of operation;
 - (c) Compliance with Department regulations; and
 - (d) Minimal impact on the air quality of the surrounding region. If a source is designated as a minimal source, the annual compliance determination fee, provided by OAR ~~340-20-165~~340-28-1750, will be collected in conjunction with plant site compliance inspections which will occur no less frequently than every five (5) years.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.08; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-155

Multiple-Source Permit

~~340-20-160~~340-28-1730 When a single site includes more than one air contaminant source, a single permit may be issued including all sources located at the site. For uniformity such applications shall separately identify by subsection each air contaminant source included from **Table ~~114~~**.

- (1) When a single air contaminant source which is included in a multiple-source permit, is subject to permit modification, revocation, suspension, or denial, such action by the Department or Regional Authority shall only affect that individual source without thereby affecting any other source subject to the permit.
- (2) When a multiple-source permit includes air contaminant sources subject to the jurisdiction of the Department and the Regional Authority, the Department may require that it shall be the permit issuing agency. In such cases, the Department and the Regional Authority shall otherwise maintain and exercise all other aspects of their respective jurisdictions over the permittee.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-003.10; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-160

Synthetic Minor Sources

340-28-1740

- (1) Enforceable conditions to limit a source's potential to emit shall be included in the ACDP for a synthetic minor source. Enforceable conditions, in addition to the PSEL established under OAR 340-28-1000 through 340-28-1060, shall include one or more of the following physical or operational limitations but in no case shall exceed the conditions used to establish the PSEL:
 - (a) restrictions on hours of operation;
 - (b) restrictions on levels of production;
 - (c) restrictions on the type or amount of material combusted, stored, or processed;
 - (d) additional air pollution control equipment; or
 - (e) other limitations on the capacity of a source to emit air pollutants.
- (2) The reporting and monitoring requirements of the conditions which limit the potential to emit contained in the ACDP of synthetic minor sources shall meet the requirements of OAR 340-28-1100 through 340-28-1140.
- (3) To avoid being required to submit an application for a federal operating permit, the owner or operator of a major source, as defined by OAR 340-28-2110, shall obtain an ACDP or a modification to an ACDP containing conditions that would qualify the source as a synthetic minor source before the owner or operator would be required to submit a federal operating permit application.
- (4) Applications for synthetic minor source status shall be subject to notice procedures of OAR 340-28-1710.
- (5) Synthetic minor source owners or operators who cause their source to be subject to the federal operating permit program by requesting an increase in the source's potential to emit, when that increase uses the source's existing capacity and does not result from construction or modification, shall:
 - (a) become subject to OAR 340-28-2100 through 340-28-2320;
 - (b) submit a permit application under OAR 340-28-2120; and
 - (c) receive a federal operating permit before commencing operation in excess of the enforceable condition to limit potential to emit.
- (6) Synthetic minor source owners or operators who cause their source to be subject to the federal operating permit program by requesting an increase in the source's potential to emit, when that increase is the result of construction or modification, shall:
 - (a) submit an application for the modification of the existing ACDP;
 - (b) receive the modified ACDP before beginning construction or modification;
 - (c) become subject to OAR 340-28-2100 through 340-28-2320; and
 - (d) submit a permit application under OAR 340-28-2120 to obtain a federal operating permit within 12 months after initial startup of the construction or modification.
- (7) Synthetic minor sources that exceed the limitations on

potential to emit are in violation of OAR 340-28-2110(1)(a).

Fees and Permit Duration

~~340-20-165~~340-28-1750

- (1) All persons required to obtain a permit shall be subject to a three part fee consisting of a uniform non-refundable filing fee of \$75, an application processing fee, and an annual compliance determination fee which are determined by applying Table 114. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted as a required part of any application for a new permit. The amount equal to the filing fee and the application processing fee shall be submitted with any application for modification of a permit. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted with any application for a renewed permit.
- (2) The fee schedule contained in the listing of air contaminant sources in Table 114 shall be applied to determine the permit fees, on a Standard Industrial Classification (SIC) plant site basis.
- (3) Modifications of existing, unexpired permits which are instituted by the Department or Regional Authority due to changing conditions or standards, receipts or additional information, or any other reason pursuant to applicable statutes and do not require refiling or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.
- (4) Applications for multiple-source permits received pursuant to OAR ~~340-20-160~~340-28-1730 shall be subject to a single \$75 filing fee. The application processing fee and annual compliance determination fee for multiple-source permits shall be equal to the total amounts required by the individual sources involved, as listed in Table 114.
- (5) The annual compliance determination fee shall be paid at least 30 days prior to the start of each subsequent permit year. Failure to timely remit the annual compliance determination fee in accordance with the above shall be considered grounds for not issuing a permit or revoking an existing permit.
- (6) If a permit is issued for a period less than one (1) year, the applicable annual compliance determination fee shall be equal to the full annual fee. If a permit is issued for a period greater than 12 months, the applicable annual compliance determination fee shall be prorated by multiplying the annual compliance determination fee by the number of months covered by the permit and dividing by twelve (12).
- (7) In no case shall a permit be issued for more than ten (10) years, except for synthetic minor source permits which shall not be issued for more than five (5) years.
- (8) Upon accepting an application for filing, the filing fee shall be non-refundable.
- (9) When an air contaminant source which is in compliance with the rules of a permit issuing agency relocates or proposes

to relocate its operation to a site in the jurisdiction of another permit issuing agency having comparable control requirements, application may be made and approval may be given for an exemption of the application processing fee. The permit application and the request for such fee reduction shall be accompanied by:

- (a) A copy of the permit issued for the previous location; and
 - (b) Certification that the permittee proposes to operate with the same equipment, at the same production rate, and under similar conditions at the new or proposed location. Certification by the agency previously having jurisdiction that the source was operated in compliance with all rules and regulations will be acceptable should the previous permit not indicate such compliance.
- (10) If a temporary or conditional permit is issued in accordance with adopted procedures, fees submitted with the application for an ~~Air Contaminant Discharge Permit~~ ACDP shall be retained and be applicable to the regular permit when it is granted or denied.
- (11) All fees shall be made payable to the permit issuing agency.
- (12) Pursuant to ORS 468A.135, a regional authority may adopt fees in different amounts than set forth in Table 114 provided such fees are adopted by rule and after hearing and in accordance with ORS 468.065(2).
- (13) Sources which are temporarily not conducting permitted activities, for reasons other than regular maintenance or seasonal limitations, may apply for use of a modified annual compliance determination fee in lieu of an annual compliance determination fee determined by applying Table 114. A request for use of the modified annual compliance determination fee ~~must~~ shall be submitted to the Department in writing along with the modified annual compliance determination fees on or before the due date of the annual compliance determination fee ~~on or before the due date of the annual compliance determination fee~~. The modified annual compliance determination fee shall be \$250.
- (14) ~~Sources which~~ Owners or operators who have received Department approval for payment of a modified annual compliance determination fee ~~must~~ shall obtain authorization from the Department prior to resuming permitted activities. ~~Sources~~ Owners or operators shall submit written notification to the Department at least thirty (30) days before startup specifying the earliest anticipated startup date, and accompanied by:
- (a) Payment of the full annual compliance determination fee determined from Table 114 if greater than six (6) months would remain in the billing cycle for the source, or
 - (b) Payment of 50% of the annual compliance determination fee determined from Table 114 if six (6) months or less would remain in the billing cycle.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.12; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 11-1983, f. & ef. 5-31-83; DEQ 6-1986, f. & ef.

3-26-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 17-1990, f. & cert. ef. 5-25-90; AQ 4-1992, f. & ef. 12-2-91; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-165

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 2018 - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE H4
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
~~(340-20-155)~~**340-28-1750**

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|--|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control Review - \$1,500 |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification (name change, ownership transfer, and similar) - \$50 |
| C. Ambient Monitoring Network Review - \$90 | | |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
1. Seed cleaning located in special control areas, commercial operations only (not elsewhere included)	0723	75	400	610
2. Reserved				
3. Flour and other grain mill products in special control areas	2041			
a) 10,000 or more tons/yr		75	1300	1200
b) Less than 10,000 tons/yr		75	1000	515
4. Cereal preparations in special control areas	2043	75	1300	865
5. Blended and prepared flour in special control areas	2045			
a) 10,000 or more tons/yr		75	1300	865
b) Less than 10,000 tons/yr		75	1000	500
6. Prepared feeds for animals and fowl in special control areas	2048			
a) 10,000 or more tons/yr		75	1300	1200
b) Less than 10,000 tons/yr		75	800	945
7. Beet sugar manufacturing	2063	75	1700	5955
8. Rendering plants Animal reduction facilities	2077			
a) 10,000 or more tons/yr input		75	1600	1920
b) Less than 10,000 tons/yr input		75	1200	1040
9. Coffee roasting, 30 tons/yr or more roasted product	2095	75	800	785

OREGON ADMINISTRATIVE RULES
CHAPTER 340. DIVISION ~~2018~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~114~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~ 340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|--|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control Review - \$1,500 |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification (name change, ownership transfer, and similar) - \$50 |
| C. Ambient Monitoring Network Review - \$90 | | |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
10. Sawmills and/or planing mills a) 25,000 or more bd.ft./shift finished product b) Reserved	2421, 2426	75	800	1200
11. Reserved				
12. Reserved				
13. Millwork (including <u>kitchen cabinets and</u> structural wood members), 25,000 or more bd.ft./shift input	2431, <u>2434</u> , 2439	75	600	945
14. Plywood manufacturing and/or veneer drying a) 25,000 or more sq.ft./hr, 3/8" basis finished product b) 10,000 or more but less than 25,000 sq.ft./hr, 3/8" basis finished product c) Less than 10,000 sq.ft./hr, 3/8" basis finished product	2435, 2436	75	2500	2420
		75	1800	1635
		75	600	865
15. Reserved				
16. Wood preserving (excluding waterborne)	2491	75	1000	960

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION ~~2018~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~144~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~) 340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|---|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | Review - \$1,500 |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification |
| C. Ambient Monitoring Network Review - \$90 | | (name change, ownership transfer, and similar) - \$50 |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
17. Particleboard manufacturing (including strandboard, flakeboard and waferboard)	2493			
a) 10,000 or more sq.ft./hr, 3/4" basis finished product		75	2500	2850
b) Less than 10,000 sq.ft./hr, 3/4" basis finished product		75	1200	1360
18. Hardboard manufacturing (including fiberboard)	2493			
a) 10,000 or more sq.ft./hr, 1/8" basis finished product		75	2500	2340
b) Less than 10,000 sq.ft./hr, 1/8" basis finished product		75	1200	1200
19. Battery separator mfg.	2499	75	1000	2080
20. Furniture and fixtures	2511			
a) 25,000 or more bd.ft./ shift input		75	600	945
b) Reserved				
21. Pulp mills, paper mills, and paperboard mills	2611, 2621, 2631			
a) Kraft, sulfite, & neutral sulfite only		75	5000	10355
b) Other - 100 tons or more of emissions		75	5000	10355

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION ~~2018~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~111~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|--|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control Review - \$1,500 |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification (name change, ownership transfer, and similar) - \$50 |
| C. Ambient Monitoring Network Review - \$90 | | |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
22. Building paper and building-board mills	2621, 2493	75	800	785
23. Alkalies and chlorine mfg.	2812			
a. High cost		75	2450	2750
b. Low cost		75	1400	2065
24. Calcium carbide manufacturing	2819			
a. High cost		75	2625	2750
b. Low cost		75	1500	2065
25. Nitric acid manufacturing	2819			
a. High cost		75	1750	1385
b. Low cost		75	1000	1040
26. Ammonia manufacturing	2819			
a. High cost		75	1750	1600
b. Low cost		75	1000	1200
27. Industrial inorganic and organic chemicals manufacturing (not elsewhere included)	2819, 2869			
a. High cost		75	2275	1960
b. Low cost		75	1300	1475
28. Synthetic resin manufacturing	2821			
a. High cost		75	1750	1600
b. Low cost		75	1000	1200

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION ~~2018~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~H14~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|---|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | Review - \$1,500 |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification |
| C. Ambient Monitoring Network Review - \$90 | | (name change, ownership transfer, and similar) - \$50 |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
29. Charcoal manufacturing	2861	75	1400	2500
30. Pesticide manufacturing	2879	75	2500	10355
31. Petroleum refining	2911			
a) Refining, general		75	5000	10355
b) Asphalt production by distillation		75	1000	1200
32. Reserved				
33. Asphalt blowing plants	2952	75	1000	1555
34. Asphaltic concrete paving plants	2951			
a) Stationary		75	500	590
b) Portable		75	500	750
35. Asphalt felts or coating	2952	75	500	900
36. Refining of lubricating oils and greases, and reprocessing of oils and solvents for fuel	2992	75	900	1120
37. Glass container manufacturing	3221	75	1000	1475
38. Cement manufacturing	3241	75	3200	7585
39. Concrete manufacturing, including redimix and CTB	3271, 3272, 3273	75	200	320
40. Lime manufacturing	3274	75	1500	785
41. Gypsum products	3275	75	800	865

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION ~~24018~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~444~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|--|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control Review - \$1,500 |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification (name change, ownership transfer, and similar) - \$50 |
| C. Ambient Monitoring Network Review - \$90 | | |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
42. Rock crusher	1442, 1446, 3295			
a) Stationary		75	450	590
b) Portable		75	450	750
43. Steel works, rolling and finishing mills, electro-metallurgical products	3312, 3313	75	2500	2065
44. Incinerators	4953			
a) 250 or more tons/day capacity or any off-site infectious waste incinerator		75	12000	5170
b) 50 or more but less than 250 tons/day capacity		75	3000	1570
c) 2 or more but less than 50 tons/day capacity		75	500	610
d) Crematoriums and pathological waste incinerators, less than 2 tons/day capacity		75	500	610
e) PCB and/or hazardous waste incinerator		75	12000	5170

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 2018 - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE 44
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

<p>A. Late Payment</p> <p>a) 8-30 days \$200</p> <p>b) > 30 days \$400</p>	<p>D. Modeling Review</p> <p>a) Screening methodology \$ 500</p> <p>b) Refined methodology \$1,000</p>	<p>E. Alternative Emission Control Review - \$1,500</p>
<p>B. BACT/LAER Determination - \$12,500 each</p> <p>C. Ambient Monitoring Network Review - \$90</p>		<p>F. Non-technical permit modification (name change, ownership transfer, and similar) - \$50</p>

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
45. Gray iron and steel foundries, [M] malleable iron foundries, [S] steel investment foundries, [S] steel [F] foundries (not elsewhere classified)	3321, 3322, 3324, 3325			
a) 3,500 or more tons/yr production		75	2500	1810
b) Less than 3,500 tons/yr production		75	600	945
46. Primary aluminum production	3334	75	5000	10355
47. Primary smelting of zirconium or hafnium	3339	75	5000	10355
48. Primary smelting and refining of ferrous and nonferrous metals (not elsewhere classified)	3331, 3339			
a) 2,000 or more tons/yr production		75	2500	4480
b) Less than 2,000 tons/yr production		75	500	1730
49. Secondary smelting and refining of nonferrous metals, 100 or more tons/yr metal charged	3341	75	1200	1200
50. Nonferrous metals foundries, 100 or more tons/yr metal charged	3363, 3364, 3365, 3366, 3369	75	600	1040
51. Reserved				

OREGON ADMINISTRATIVE RULES
CHAPTER 340. DIVISION ~~2408~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~44~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|---|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | Review - \$1,500 |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification |
| C. Ambient Monitoring Network Review - \$90 | | (name change, ownership transfer, and similar) - \$50 |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
52. Galvanizing and pipe coating (excluding all other activities)	3479	75	500	785
53. Battery manufacturing	3691	75	600	1040
54. Grain elevators, intermediate storage only, located in special control areas (not elsewhere classified)	4221			
a) 20,000 or more tons/yr grain processed		75	900	1635
b) Less than 20,000 tons/yr grain processed		75	500	785
55. Electric power generation	4911*			
a) Wood or (C) coal (F) fired, 25 MW or more		75	20000	10355
b) Reserved				
c) Oil or (N) natural (G) gas (F) fired, 25 MW or more		75	1800	2500
56. Fuel burning equipment for Gas production and/or distribution, 10 million or more Btu/hr heat input	4922, 4925			
a) Natural gas transmission		75	1900	1200
b) Natural gas production and/or mfg.		75	1900	1200

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION ~~2018~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~111~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
~~(340-20-155)~~ 340-28-1750

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|---|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | Review - \$1,500 |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification |
| C. Ambient Monitoring Network Review - \$90 | | (name change, ownership transfer, and similar) - \$50 |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
57. Grain elevators, terminal elevators primarily engaged in buying and/or marketing grain, in special control areas	5153			
a) 20,000 or more tons/yr grain processed		75	2500	2065
b) Less than 20,000 tons/yr grain processed		75	700	785
58. Fuel (B) burning equipment within the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass, Klamath Falls, and LaGrande Urban Growth Areas**, ***	4961			
(Fees will be based on the total aggregate heat input of all fuel burning equipment at the site)				
a) Residual or distillate oil fired, 250 million or more Btu/hr heat input		75	1600	1570
b) Residual or distillate oil fired, 10 or more but less than 250 million Btu/hr heat input		75	1000	865
c) Reserved				
59. Fuel (B) burning equipment within the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass, Klamath Falls, and LaGrande Urban Growth Areas**, ***	4961			
(Fees will be based on the total aggregate heat input of all fuel burning equipment at the site)				
a) Wood or coal fired, 35 million or more Btu/hr heat input		75	1600	1570
b) Wood or coal fired, less than 35 million Btu/hr heat input		75	400	865

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION ~~2018~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~414~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|---|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | Review - \$1,500 |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification |
| C. Ambient Monitoring Network Review - \$90 | | (name change, ownership transfer, and similar) - \$50 |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
60. Fuel (B) burning equipment outside the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass, Klamath Falls, and LaGrande Urban Growth Areas**, ***	4961	_____		
		(Fees will be based on the total aggregate heat input of all fuel burning equipment at the site)		
All oil fired 30 million or more Btu/hr heat input, and all wood and coal fired 10 million or more Btu/hr heat input		75	1000	865
61. Sources installed in or after 1971 not listed herein which would emit <u>5 or more tons PM₁₀ in a PM₁₀ nonattainment area</u> , or 10 or more tons/yr of any air contaminants <u>in other parts of the state. This [including] includes</u> but is not limited to particulates, SO _x , or Volatile Organic Compounds (VOC), if the source were to operate uncontrolled (-)	any			
a) High cost		75	9000	6400
b) Medium cost		75	2500	1120
c) Low cost		75	600	480
62. Sources installed in or after 1971 not listed herein which would emit significant malodorous emissions, as determined by Departmental review of sources which are known to have similar air contaminant emissions.	any			
a) High cost		75	9000	6400

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION ~~2018~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~114~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|---|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | Review - \$1,500 |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification |
| C. Ambient Monitoring Network Review - \$90 | | (name change, ownership transfer, and similar) - \$50 |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
b) Medium cost		75	2500	1120
c) Low cost		75	600	480
63. Sources not listed herein for which an air quality problem is identified by the Department	any			
a) High cost		75	9000	6400
b) Medium cost		75	2500	1120
c) Low cost		75	600	480
64. Bulk (G) gasoline (P) plants regulated by OAR 340-22-120****	5171	75	400	515
65. Bulk (G) gasoline (F) terminals****	5171	75	4000	1730
66. Liquid (S) storage (T) tanks, 39,000 gallons or more capacity, regulated by OAR 340-22-160 (not elsewhere included)****	5169, 5171	75	200/tank	355/tank
67. Can or drum (C) coating****	3411, 3412			
a) 50,000 or more units/mo.		75	6000	3105
b) Less than 50,000 units/mo.		75	400	690
68. Paper or other substrate (C) coating****	2672 , 3861	75	6000	3105
69. Coating (F) flat (W) wood regulated by OAR 340-22-200****	2435	75	2000	1040
70. Surface (C) coating, (M) manufacturing****	any			
a) 100 or more tons VOC/yr		75	2000	1380
b) 10 or more but less than 100 tons VOC/yr		75	600	690
c) less than 10 tons VOC/yr (at sources' request)		75	200	290

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION ~~2018~~ - DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE ~~114~~
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(~~340-20-155~~340-28-1750)

NOTE: Fees in A-F are in addition to any other applicable fees

- | | | |
|---|---------------------------------|--|
| A. Late Payment | D. Modeling Review | E. Alternative Emission Control Review - \$1,500 |
| a) 8-30 days \$200 | a) Screening methodology \$ 500 | |
| b) > 30 days \$400 | b) Refined methodology \$1,000 | |
| B. BACT/LAER Determination - \$12,500 each | | F. Non-technical permit modification (name change, ownership transfer, and similar) - \$50 |
| C. Ambient Monitoring Network Review - \$90 | | |

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
71. Flexographic or [R]rotogravure printing, 60 or more tons VOC/yr per plant****	2754, 2759	75	2250	2000
72. Reserved				
73. Sources subject to NESHAPS rules (except demolition and renovation)	any	75	400	500
74. Sources requiring toxic air pollutant review, <u>including Maximum Available Control Technology (MACT)</u> , (not elsewhere classified)	any	75	1000	960
75. Soil [R]remediation [R]plants	1799			
a) Stationary		75	1000	945
b) Portable		75	1000	1200

- * Excluding hydro-electric and nuclear generating projects.
- ** Including co-generation facilities of less than 25 megawatts.
- *** Legal descriptions and maps of these areas are on file in the Department.
- **** Permit for sources in categories 64 through 71 are required only if the source is located in the Portland AQMA, Medford-Ashland AQMA or Salem SATS.

Renumbered from OAR 340-20-155

Procedures For Obtaining Permits

~~{340-20-170}~~340-28-1760 Submission and processing of applications for permits and issuance, denial, modification, and revocation, of permits shall be in accordance with duly adopted procedures of the permit issuing agency.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.14; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-185

Other Requirements

~~{340-20-175}~~340-28-1770

- (1) Any person intending to obtain an ~~{Air Contaminant Discharge Permit}~~ACDP to construct, install, or establish a new or modified source of air contaminant emissions as required in OAR ~~{340-20-155}~~340-28-1720 shall submit a completed application on forms provided by the Department or at least the following information:
 - (a) Name, address, and nature of business;
 - (b) A description of the production processes and a related flow chart;
 - (c) A plot plan showing location of all air contaminant sources and the nearest residential or commercial property;
 - (d) Type and quantity of fuels used;
 - (e) Amount, nature, and duration of emissions;
 - (f) Estimated efficiency of air pollution control equipment.
- (2) Any person complying with section (1) of this rule shall be exempted from complying with the notice of construction requirements of OAR ~~{340-20-020}~~340-28-800 and ~~{340-20-032}~~340-28-820.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.16; DEQ 20-1979, f. & ef. 6-29-79; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-175

Registration Exemption

~~{340-20-180}~~340-28-1780 Air contaminant sources constructed and operated under a permit issued pursuant to these regulations shall be exempted from registration as required by ORS 468A.050 and OAR ~~{340-20-005, 340-20-010, and 340-20-015}~~340-28-500 through 340-28-520.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.18; DEQ 20-1979, f. & ef. 6-29-79; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-180

Permit Program For Regional Air Pollution Authority

~~340-20-185~~ 340-28-1790 Subject to the provisions of this rule, the Commission authorizes the Regional Authority to issue, modify, renew, suspend, and revoke ~~air contaminant discharge permit~~ ACDPs or federal operating permits for air contamination sources within its jurisdiction.

- (1) Each permit proposed to be issued or modified by the Regional Authority shall be submitted to the Department at least thirty (30) days prior to the proposed issuance date.
- (2) A copy of each permit issued, modified, or revoked by the Regional Authority shall be promptly submitted to the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.20; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-185

New Source Review

Applicability

~~340-20-220~~ 340-28-1900

- (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~~ ACDP from the ~~Department of Environmental Quality~~ Department and having satisfied OAR ~~340-20-220~~ 340-28-1900 through ~~340-20-276~~ 340-28-2000 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~~ 340-28-600, Notice of Construction and Approval of Plans, OAR ~~340-20-020~~ 340-28-800 through ~~340-20-032~~ 340-28-820, ~~Air Contaminant Discharge Permit~~ ACDPs, OAR ~~340-20-140~~ 340-28-1700 through ~~340-20-185~~ 340-28-1790, Emission Standards for Hazardous Air Contaminants, OAR 340-25-450 through 340-25-485, and Standards of Performance for New Stationary Sources, OAR 340-25-505 through 340-25-545.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-220

Definitions

340-20-225 [Renumbered to OAR 340-28-110]

Procedural Requirements

~~{340-20-230}~~ 340-28-1910

- (1) Information Required. The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or make any determination required under these rules. Such information shall include, but not be limited to:
- (a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;
 - (b) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, and yearly rates, showing the calculation procedure;
 - (c) A detailed schedule for construction of the source or modification;
 - (d) A detailed description of the system of continuous ~~emissions~~ reduction which is planned for the source or modification, and any other information necessary to determine that ~~{Best Available Control Technology}~~ BACT or ~~{Lowest Achievable Emission Rate}~~ LAER technology, whichever is applicable, would be applied;
 - (e) To the extent required by these rules, an analysis of the air quality and/or visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and
 - (f) To the extent required by these rules, an analysis of the air quality and/or visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth which has occurred since January 1, 1978, in the area the source or modification would affect.
 - (g) The owner or operator of a source for which a federal operating permit has been issued who applies for a permit to construct or modify under OAR 340-28-1900 through 340-28-2000 may request that an enhanced New Source Review process be used, including the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310 instead of the notice procedures under this rule to allow for subsequent incorporation of the construction permit as an administrative amendment. All information required under OAR 340-28-2120 shall be submitted as part of any such request.
- (2) Other Obligations:
- (a) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to OAR ~~{340-20-220}~~ 340-28-1900 through ~~{276}~~ 340-28-2000 or with the terms of any approval to construct, or any owner or operator of a source or modification subject to OAR ~~{340-20-~~

- ~~2201340-28-1900~~ who commences construction without applying for and receiving an ~~{Air Contaminant Discharge Permit}~~ ACDP, shall be subject to appropriate enforcement action;
- (b) Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time. The Department may extend the 18-month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase ~~{must}~~ shall commence construction within 18 months of the projected and approved commencement date;
- (c) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state or federal law.
- (d) Approval to construct a source under an ACDP issued under OAR 340-28-1910(3)(b)(I) shall authorize construction and operation of the source until the later of:
- (A) One year from the date of initial startup of operation of the major source or major modification, or
- (B) If a timely and complete application for a federal operating permit is submitted, the date of final action by the Department on the federal operating permit application.
- (3) Public Participation:
- (a) Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Department received all required information;
- (b) Notwithstanding the requirements of OAR 340-14-020 or OAR 340-28-2120, but as expeditiously as possible and at least within six months after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:
- (A) Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved;
- (B) Make available for a 30-day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;
- (C) Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination, the extent of increment consumption that is expected from the source or modification, ~~and~~ the opportunity for a

public hearing and for written public comment and, if applicable, that an enhanced New Source Review process, including the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310, is being used to allow for subsequent incorporation of the operating approval into a federal operating permit as an administrative amendment;

- (D) Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the ~~U.S. Environmental Protection Agency~~ EPA;
- (E) Upon determination that significant interest exists, or upon written requests for a hearing from ten (10) persons or from an organization or organizations representing at least ten persons, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR Chapter 345, Division 15;
- (F) Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification;
- (G) Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section;
- (H) Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.
- (I) After the effective date of Oregon's program to implement the federal operating permit program, the owner or operator of a source subject to OAR 340-28-2110 who has received a permit to construct or modify under OAR 340-28-1900 through 340-28-2000 shall submit

an application for a federal operating permit within one year of initial startup of the construction or modification. The federal operating permit application shall include the following information:

- (i) information required by OAR 340-28-2120, if not previously included in the ACDP application;
- (ii) a copy of the existing ACDP;
- (iii) information on any changes in the construction or operation from the existing ACDP (if applicable); and
- (iv) any monitoring or source test data obtained during the first year of operation.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 18-1984, f. & ef. 10-16-84; DEQ 13-1988, f. & cert. ef. 6-17-88; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-230

Review of New Sources and Modifications for Compliance With Regulations

~~{340-20-235}~~340-28-1920 The owner or operator of a proposed major source or major modification ~~{must}~~shall demonstrate the ability of the proposed source or modification to comply with all applicable requirements of the Department ~~{of Environmental Quality}~~, including ~~{New Source Performance Standards}~~NSPS, OAR 340-25-505 through 340-25-530, and ~~{National Emission Standards for Hazardous Air Pollutants}~~NESHAP, OAR 340-25-450 through 340-25-485, and shall obtain an ~~{Air Contaminant Discharge Permit}~~ACDP pursuant to OAR ~~{340-20-140}~~340-28-1700 through ~~{340-20-185}~~340-28-1790.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-235

Requirements for Sources in Nonattainment Areas

~~{340-20-240}~~340-28-1930 Proposed new major sources and major modifications which would emit a nonattainment pollutant within a designated nonattainment areas shall meet the requirements listed below:

- (1) ~~{Lowest Achievable Emission Rate}~~LAER. The owner or operator of the proposed major source or major modification ~~{must}~~shall demonstrate that the source or modification will comply with the ~~{Lowest Achievable Emission Rate}~~LAER~~{(LAER)}~~ for each nonattainment pollutant which is emitted at or above the significant emission rate. 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~~ shall 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) Offsets. The owner or operator of the proposed major source or major modification ~~must~~ shall provide offsets as specified in OAR ~~340-20-255~~ 340-28-1960 and ~~340-20-260~~ 340-28-1970.
 - (4) Net Air Quality Benefit. For cases in which emission reductions or offsets are required, the applicant ~~must~~ shall demonstrate that a net air quality benefit will be achieved in the affected area as described in OAR ~~340-20-260~~ 340-28-1970 and that the reductions are consistent with reasonable further progress toward attainment of the air quality standards. Applicants in an ozone nonattainment area ~~must~~ shall demonstrate that the proposed offsets will result in a 10% net reduction in emissions, as required by OAR ~~340-20-260~~ 340-28-1970 (3) (c).
 - (5) Alternative Analysis:
 - (a) The owner or operator of a proposed new major source or major modification shall conduct an alternative analysis for each nonattainment pollutant emitted at or above the significant emission rate, except that no analysis shall be required for ~~Total Suspended Particulate (TSP)~~;
 - (b) This analysis ~~must~~ shall 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 which emit ~~Volatile Organic Compound~~ VOCs and oxides of nitrogen at or above the significant emission rate and are located in the Salem Ozone ~~in~~ Nonattainment ~~an~~ 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 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93, Renumbered from 340-20-240

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Requirements for Sources in Attainment or Unclassified Areas

(Prevention of Significant Deterioration)

~~{340-20-245}~~340-28-1940 New Major Sources or Major Modifications locating in areas designated attainment or unclassifiable shall meet the following requirements:

- (1) ~~{Best Available Control Technology}~~BACT. The owner or operator of the proposed major source or major modification shall apply ~~{Best Available Control Technology}~~ ~~{BACT}~~ for each pollutant which is emitted at a significant emission rate. In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.
- (2) Air Quality Analysis:
 - (a) The owner or operator of the proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate, in conjunction with all other applicable emissions increases and decreases, including secondary emissions, would not cause or contribute to air quality levels in excess of:
 - (A) Any state or national ambient air quality standard; or
 - (B) Any applicable increment established by the Prevention of Significant Deterioration (PSD) requirements, OAR 340-31-110; or
 - (C) An impact on a designated nonattainment area greater than the significant air quality impact levels. New sources or modifications of sources which would emit ~~{Volatile Organic Compound}~~VOCs which may impact the Salem ozone nonattainment area are exempt from this requirement.
 - (b) Sources or modifications with the potential to emit at rates greater than the significant emission rate but less than 100 tons/year, and are greater than 50 kilometers from a nonattainment area, then the owner or operator of that source or modification is~~are~~ not required to assess ~~{their}~~its impact on the nonattainment area;
 - (c) If the owner or operator of a proposed major source or major modification wishes to provide emission offsets such that a net air quality benefit, OAR ~~{340-20-260}~~340-28-1970, is provided, the Department may consider the requirements of section (2) of this rule to have been met.
- (3) Exemption for Sources Not Significantly Impacting or Contributing to Levels in Excess of Air Quality Standards or PSD Increment Levels:
 - (a) A proposed major source or major modification is exempt from OAR ~~{340-20-220}~~340-28-1900 through ~~{340-20-276}~~340-28-2000 if paragraphs (A) and (B) of this subsection are satisfied:
 - (A) The proposed source or major modification does not cause or contribute a significant air quality impact to air quality levels in excess of any state or national ambient air quality standard; or to air quality levels in excess of any applicable increment established by

the ~~{Prevention of Significant Deterioration}~~ PSD requirements, OAR 340-31-110; or on a designated nonattainment area;

(B) The potential emissions of the source are less than 100 tons/year for sources in the following categories or less than 250 tons/year for sources not in the following source categories:

- (i) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;
- (ii) Coal cleaning plants with thermal dryers;
- (iii) Kraft pulp mills;
- (iv) Portland cement plants;
- (v) Primary Zinc Smelters;
- (vi) Iron and Steel Mill Plants;
- (vii) Primary aluminum ore reduction plants;
- (viii) Primary copper smelters;
- (ix) Municipal Incinerators capable of charging more than 250 tons of refuse per day;
- (x) Hydrofluoric acid plants;
- (xi) Sulfuric acid plants;
- (xii) Nitric acid plants;
- (xiii) Petroleum Refineries;
- (xiv) Lime plants;
- (xv) Phosphate rock processing plants;
- (xvi) Coke oven batteries;
- (xvii) Sulfur recovery plants;
- (xviii) Carbon black plants, furnace process;
- (xix) Primary lead smelters;
- (xx) Fuel conversion plants;
- (xxi) Sintering plants;
- (xxii) Secondary metal production plants;
- (xxiii) Chemical process plants;
- (xxiv) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;
- (xxv) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxvi) Taconite ore processing plants;
- (xxvii) Glass fiber processing plants;
- (xxviii) Charcoal production plants.

(b) Major modifications are not exempted under this section unless the source including the modifications meets the requirements of paragraph (a)(A) and (B) of this section. Owners or operators of proposed sources which are exempted by this provision should refer to OAR ~~{340-20-020}~~ 340-28-800 through ~~{340-20-032}~~ 340-28-820, Notice of Construction and Approval of Plans, and OAR ~~{340-20-140}~~ 340-28-1700 through ~~{340-20-185}~~ 340-28-1790, ~~{Air Contaminant Discharge Permits}~~ ACDP, for possible applicable requirements;

(c) A proposed major source or modification is exempted from the requirements for PM₁₀ in OAR ~~{340-20-220}~~ 340-28-1900 through ~~{340-20-276}~~ 340-28-2000 if:

- (i) The proposed source or modification received an ~~{Air Contaminant Discharge Permit}~~ ACDP prior to July 31, 1987, and meets all requirements of 40

- CFR 52.21(i)(4)(ix); or
- (ii) The owner or operator of the proposed source or modification submitted a complete application for an ~~{Air Contaminant Discharge Permit}~~ ACDP prior to July 31, 1987, and meets all requirements of 40 CFR 52.21(i)(4)(x).
- (4) Air Quality Models. All estimates of ambient concentrations required under these rules shall be based on the applicable air quality models, data bases, and other requirement specified in the "**Guidelines on Air Quality Models (Revised)**" EPA 450/2-78-027R, U.S. Environmental Protection Agency], September 1986, including Supplement A, July, 1987. Where an air quality impact model specified in the "**Guideline on Air Quality Models (Revised)**" (including Supplement A) is inappropriate, the model may be modified or another model substituted. Such a change ~~{must}~~ shall be subject to notice and opportunity for public comment and ~~{must}~~ shall receive approval of the Department and the ~~{U.S. Environmental Protection Agency}~~ EPA. Methods like those outlined in the "**Interim Procedures for Evaluating Air Quality Models (Revised)**" (U.S. Environmental Protection Agency, 1984) should be used to determine the comparability of models.
- (5) Air Quality Monitoring:
- (a) (A) The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality in the area impacted by the proposed project. This analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator of the source shall submit for the approval of the Department, a preconstruction air quality monitoring plan.
- (B) Air quality monitoring which is conducted pursuant to this requirement shall be conducted in accordance with 40 CFR 58 Appendix B, "**Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring**" and with other methods on file with the Department.
- (C) The Department may exempt a proposed major source

or major modification from monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that the concentrations of the pollutant in the area that the source or modification would impact are less than these amounts:

- (i) Carbon monoxide - 575 ug/m³, 8 hour average;
- (ii) Nitrogen dioxide - 14 ug/m³, annual average;
- (iii) Suspended Particulate Matter:
 - (I) TSP - 10 ug/m³, 24 hour average;
 - (II) PM₁₀ - 10 ug/m³, 24 hour average;
- (iv) Sulfur dioxide - 13 ug/m³, 24 hour average;
- (v) Ozone - Any net increase of 100 tons/year or more of ~~{Volatile Organic Compound} VOCs~~ from a source or modification subject to PSD ~~{is required to perform}~~ requires an ambient impact analysis, including the gathering of ambient air quality data;
- (vi) Lead - 0.1 ug/m³, 24 hour average;
- (vii) Mercury - 0.25 ug/m³, 24 hour average;
- (viii) Beryllium - 0.0005 ug/m³, 24 hour average;
- (ix) Fluorides - 0.25 ug/m³, 24 hour average;
- (x) Vinyl chloride - 15 ug/m³, 24 hour average;
- (xi) Total reduced sulfur - 10 ug/m³, 1 hour average;
- (xii) Hydrogen sulfide - 0.04 ug/m³, 1 hour average;
- (xiii) Reduced sulfur compounds - 10 ug/m³, 1 hour average.

(D) When monitoring is required by paragraphs (5) (a) (A) through (C) of this rule, PM₁₀ preconstruction monitoring shall be required according to the following transition program:

- (i) Complete PSD applications submitted before May 31, 1988, shall not be required to perform new PM₁₀ monitoring;
- (ii) Complete PSD applications submitted after May 31, 1988, and before November 31, 1988 ~~{must}~~ shall use existing PM₁₀ or other representative air quality data or collect PM₁₀ monitoring data. The collected data may come from nonreference sampling methods. At least four months of data ~~{must}~~ shall be collected which the Department judges to include the season(s) of highest PM₁₀ levels;
- (iii) Complete PSD applications submitted after November 31, 1988, ~~{must}~~ shall use reference sampling methods. At least four months of data ~~{must}~~ shall be collected which the Department judges to include the season(s) of highest PM₁₀ levels.

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

- having, on air quality in any area which such emissions would affect.
- (6) Additional Impact Analysis:
- (a) The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to soils and vegetation that would occur as a result of the source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value;
- (b) The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the major source or modification.
- (7) Sources Impacting Class I Areas:
- (a) Where a proposed major source or major modification impacts or may impact a Class I area, the Department shall provide written notice to ~~the U.S. Environmental Protection Agency~~ EPA and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application, at least 30 days prior to Department Public Hearings and subsequently, of any preliminary and final actions taken with regard to such application;
- (b) The Federal Land Manager shall be provided an opportunity in accordance with OAR ~~[340-20-230]~~ 340-28-1910(3) to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values, including visibility, of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.
- (8) Medford-Ashland Growth Margin. The owner or operator or a proposed new major source or major modification in the Medford-Ashland Maintenance Area which will emit ~~Volatile Organic Compound~~ VOCs ~~must~~ shall obtain a portion of the growth margin or offsets equal to the amount of any increase in its ~~Plant Site Emission Limit~~ PSEL. The growth margin shall be allocated on a first-come-first-served basis depending on the date of submittal of a complete permit applications. No single source shall receive an allocation of more than 50% 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** and is on file with the Department.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

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

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85; DEQ 8-1988, f. & cert. ef. 5-19-88 (and corrected 5-31-88); DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-245

Exemptions

~~{340-20-250}~~340-28-1950

- (1) Resource recovery facilities burning municipal refuse and sources subject to federally mandated fuel switches may be exempted by the Department from requirements OAR ~~{340-20-240}~~340-28-1930 sections (3) and (4) provided that:
 - (a) No growth increment is available for allocation to such source or modification; and
 - (b) The owner or operator of such source or modification demonstrates that every effort was made to obtain sufficient offsets and that every available offset was secured.

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

- (2) Temporary emission sources, which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification ~~{must}~~shall comply with OAR ~~{340-20-240}~~340-28-1930(1) and (2) or OAR ~~{340-20-245}~~340-28-1940(1), whichever is applicable, but are exempt from the remaining requirements of OAR ~~{340-20-240}~~340-28-1930 and OAR ~~{340-20-245}~~340-28-1940 provided that the source or modification would impact no Class I area or no area where an applicable increment is known to be violated.
- (3) Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in an ~~{Air Contaminant Discharge Permit}~~ACDP and would not involve a physical change in the source may be exempted from the requirement of OAR ~~{340-20-245}~~340-28-1940(1) provided that the increases cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality impact levels. This exemption shall not be allowed for new sources or modifications that received permits to construct after January 1, 1978.
- (4) Also refer to OAR ~~{340-20-245}~~340-28-1940(3) for exemptions pertaining to sources smaller than the Federal Size-Cutoff Criteria.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-250

Baseline for Determining Credit for Offsets

~~{340-20-255}~~340-28-1960

- (1) The baseline for determining credit for emission offsets shall be the ~~{Plant Site Emission Limit}~~PSEL established pursuant to OAR ~~{340-20-300}~~340-28-1000 through ~~{340-20-320}~~340-28-1040 or, in the absence of a ~~{Plant Site Emission Limit}~~PSEL, 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 sources or major modifications 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}~~shall be quantifiable and enforceable before the ~~{Air Contaminant Discharge Permit}~~ACDP is issued and ~~{must}~~shall be demonstrated to remain in effect throughout the life of the proposed source or modification.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-255

Requirements for Net Air Quality Benefit

~~{340-20-260}~~340-28-1970 Demonstrations of net air quality benefit for offsets ~~{must}~~shall include the following:

- (1) A demonstration ~~{must}~~shall 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 Compound}~~VOCs or nitrogen oxides shall be within the same nonattainment area as the proposed source. Offsets for ~~{total suspended particulate}~~TSP, PM_{10} , sulfur dioxide, carbon monoxide, nitrogen dioxide, lead, and other pollutants shall be within the area of significant air quality impact.
- (3) New major sources or major modifications ~~{must}~~shall meet the following offset requirements:
 - (a) within a designated nonattainment area, the offsets

- ~~must~~ shall provide reductions which are equivalent or greater than the proposed increases. The offsets ~~must~~ shall be appropriate in terms of short term, seasonal, and yearly time periods to mitigate the impacts of the proposed emissions;
- (b) outside a designated nonattainment area, new major sources or major modifications which have a significant air quality impact on the nonattainment area, the emission offsets ~~must~~ shall 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 Compound~~ VOCs or nitrogen oxides shall provide emission reductions at a 1.1 to 1 ratio (i.e., demonstrate a 10% new reduction); and
- (d) within 30 kilometers of an ozone nonattainment area, new major sources or major modifications which emit ~~Volatile Organic Compound~~ VOCs or nitrogen oxides 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.
- (4) The emission reductions ~~must~~ shall be of the same type of pollutant as the emissions from the new source or modification. Sources of PM₁₀ ~~must~~ shall 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.
- (5) The emission reductions ~~must~~ shall be contemporaneous, that is, the reductions ~~must~~ shall take effect prior to the time of startup but not more than 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~~ 340-28-1980, 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.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

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); DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-260

Emission Reduction Credit Banking

~~340-20-265~~ 340-28-1980 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 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~~ shall 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~~ PSEL established pursuant to OAR ~~340-20-300~~ 340-28-1000 through ~~340-20-320~~ 340-28-1040.
- (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.
- (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~~ 340-28-1970(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 two 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 or 340-28-2200 through 340-28-2280.
- (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~~ shall 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~~ shall be at least in the amount specified in Table 2 of OAR ~~340-20-225(25)~~ 340-28-110;
 - (b) In Lane County, ~~the Lane Regional Air Pollution Authority~~ LRAPA may adopt lower levels.
- (7) Requests for emission reduction credit banking ~~must~~ shall be submitted to the Department and ~~must~~ shall 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 Permit}~~ ACDPs 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}~~ shall be notified in writing. Any use of emission reduction credits ~~{must}~~ shall be compatible with local comprehensive plans, statewide planning goals, and state laws and rules.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-265

Fugitive and Secondary Emissions

~~{340-20-270}~~ 340-28-1990 Fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions ~~{must}~~ shall be added to the primary emissions and become subject to these rules.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~{Environmental Quality Commission}~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-270

Visibility Impact

~~{340-20-276}~~ 340-28-2000 New major sources or major modifications located in Attainment, Unclassified or Nonattainment Areas shall meet the following visibility impact requirements.

- (1) Visibility impact analysis:
 - (a) The owner or operator of a proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate in conjunction with all other applicable emission increases or decreases, including secondary emissions, permitted since January 1, 1984, shall not cause or contribute to significant impairment of visibility within any Class I area;
 - (b) Owners or operators of p[P]roposed sources which are exempted under OAR ~~{340-20-245}~~340-28-1940(3) are not required to complete a visibility impact assessment to demonstrate that the sources do not cause or contribute to significant visibility impairment within a Class I area. The visibility impact assessment for sources exempted under this section shall be completed by the Department;
 - (c) The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or demonstration required by these rules pursuant to OAR ~~{340-20-230}~~340-28-1910(1).
- (2) Air quality models. All estimates of visibility impacts required under this rule shall be based on the models on file with the Department. Equivalent models may be substituted if approved by the Department. The Department will perform visibility modeling of all sources with potential emissions less than 100 tons/year of any individual pollutant and locating closer than 30 Km to a Class I area, if requested.
- (3) Determination of significant impairment: The results of the modeling ~~{must}~~shall be sent to the affected land managers and the Department. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not impairment of visibility in a Class I area would result. The Department will consider the comments of the Federal Land Manager in its consideration of whether significant impairment will result. Should the Department determine that impairment would result, a permit for the proposed source will not be issued.
- (4) Visibility monitoring:
 - (a) The owner or operator of a proposed major source or major modification which emit more than 250 tons per year of ~~TSP~~Particulate Matter, SO₂, or NO₂, shall submit with the application, subject to approval of the Department, an analysis of visibility in or immediately adjacent to the Class I area impacted by the proposed project. As necessary to establish visibility conditions within the Class I area, the analysis shall include a collection of continuous visibility monitoring data for all pollutants emitted by the source that could potentially impact Class I area visibility. Such data shall relate to and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that data gathered over a shorter portion of the year for another representative year would be adequate to determine that

the source ~~or if~~ major modification would not cause or contribute to significant impairment. Where applicable, the owner or operator may demonstrate that existing visibility monitoring data may be suitable. Pursuant to the requirements of these rules, the owner or operator of the source shall submit, for the approval of the Department, a preconstruction visibility monitoring plan;

- (b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such visibility monitoring as the Department may require as a permit condition to establish the effect which emissions of pollutant may have, or is having, on visibility conditions with the Class I area being impacted.
- (5) Additional impact analysis: The owner or operator of a proposed major source or major modification subject to OAR ~~{340-20-245}~~340-28-1940 (6) (a) shall provide an analysis of the impact to visibility that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or major modification.
- (6) Notification of permit application:
- (a) Where a proposed major source modification impacts or may impact visibility within a Class I area, the Department shall provide written notice to the ~~{U.S. Environmental Protection Agency}~~EPA and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application. Such notification shall include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area visibility. Notification will also be sent at least 30 days prior to Department Public Hearings and subsequently of any preliminary and final actions taken with regard to such application;
 - (b) Where the Department receives advance notification of a permit application of a source that may affect Class I area visibility, the Department will notify all affected Federal Land Managers within 30 days of such advance notice;
 - (c) The Department will, during its review of source impacts on Class I area visibility pursuant to this rule, consider any analysis performed by the Federal Land Manager that is provided within 30 days of notification required by subsection (a) of this section. If the Department disagrees with the Federal Land Manager's demonstration, the Department will include a discussion of the disagreement in the Notice of Public Hearing;
 - (d) The Federal Land Manager shall be provided an opportunity in accordance with OAR ~~{340-20-230}~~340-28-1910 (3) to present a demonstration that the emissions from the proposed source ~~or if~~ modification would have an adverse impact on visibility of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable

increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the ~~Environmental Quality Commission~~ EQC under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 18-1984, f. & ef. 10-16-84; DEQ 14-1985, f. & ef. 10-16-85; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-276

Rules Applicable to Sources Required to Have Federal Operating Permits

Policy and Purpose

340-28-2100 These rules establish a program to implement Title V of the FCAA for the State of Oregon as part of the overall industrial source control program.

- (1) All sources subject to OAR 340-28-2100 through 340-28-2320 shall have a federal operating permit that assures compliance by the source with all applicable requirements in effect as of the date of permit issuance.
- (2) The requirements of the federal operating permit program, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to the permitting of affected sources under the national acid rain program, except as provided herein.
- (3) All sources subject to OAR 340-28-2100 through 340-28-2320 are exempt from the following:
 - (a) registration as required by ORS 468A.050 and OAR 340-28-500 through 340-28-520,
 - (b) Notice of Construction and Approval of Plans, OAR 340-28-800 through 340-28-820;
 - (c) Air Contaminant Discharge Permits, OAR 340-28-1700 through 340-28-1790, unless required by OAR 340-28-1720(2), OAR 340-28-1720(4), or OAR 340-28-1900(1);
and
 - (d) OAR 340, Division 14.

Applicability

- 340-28-2110
- (1) OAR 340-28-2100 through 340-28-2320 apply to the following sources:
 - (a) Any major source;
 - (b) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 of the FCAA;
 - (c) Any source, including an area source, subject to a standard or other requirement under section 112 of the FCAA, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) of the FCAA;
 - (d) Any affected source under Title IV; and
 - (e) Any source in a source category designated by the Commission pursuant to OAR 340-28-2110.

- (2) The owner or operator of a source with a federal operating permit whose potential to emit later falls below the emission level that causes it to be a major source, and which is not otherwise required to have a federal operating permit, may submit a request for revocation of the federal operating permit. Granting of the request for revocation does not relieve the source from compliance with all applicable requirements or ACDP requirements.
- (3) Synthetic minor sources.
- (a) A source which would otherwise be a major source subject to OAR 340-28-2100 through 340-28-2320 may choose to become a synthetic minor source by limiting its emissions below the emission level that causes it to be a major source through production or operational limits contained in an ACDP issued by the Department under 340-28-1700 through 340-28-1790.
- (b) The reporting and monitoring requirements of the emission limiting conditions contained in the ACDPs of synthetic minor sources issued by the Department under 340-28-1700 through 340-28-1790 shall meet the requirements of OAR 340-28-1100 through 340-28-1140.
- (c) Synthetic minor sources who request to increase their potential to emit above the major source emission rate thresholds shall become subject to OAR 340-28-2100 through 340-28-2320 and shall submit a permit application under OAR 340-28-2120 in accordance with OAR 340-28-1740.
- (d) Synthetic minor sources that exceed the limitations on potential to emit are in violation of OAR 340-28-2110(1)(a).
- (4) Source category exemptions.
- (a) The following source categories are exempted from the obligation to obtain a federal operating permit:
- (A) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and
- (B) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 CFR part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, section 61.145, Standard for Demolition and Renovation.
- (b) All sources listed in OAR 340-28-2110(1) that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the FCAA, are exempted by the Department from the obligation to obtain a federal operating permit.
- (c) Any source listed in OAR 340-28-2110(1) exempt from the requirement to obtain a permit under this rule may opt to apply for a federal operating permit.
- (5) Emissions units and federal operating permit program sources.
- (a) For major sources, the Department shall include in the permit all applicable requirements for all relevant

emissions units in the major source, including any equipment used to support the major industrial group at the site.

- (b) For any nonmajor source subject to the federal operating permit program under OAR 340-28-2110(1) or (4), the Department shall include in the permit all applicable requirements applicable to emissions units that cause the source to be subject to the federal operating permit program.
- (6) Fugitive emissions. Fugitive emissions from a federal operating permit program source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.
- (7) Federal operating permit program sources that are required to obtain an ACDP, OAR 340-28-1700 through 340-28-1790, or a Notice of Approval, OAR 340-28-2270, because of a Title I modification, shall operate in compliance with the federal operating permit except as otherwise provided for in the ACDP or the Notice of Approval for the Title I modification.

Permit Applications

340-28-2120

- (1) Duty to apply. For each federal operating permit program source, the owner or operator shall submit a timely and complete permit application in accordance with this rule.
- (a) Timely application.
- (A) A timely application for a source that is in operation as of the effective date of the federal operating permit program is one that is submitted 12 months after the effective date of the federal operating permit program in Oregon or on or before such earlier date as the Department may establish. If an earlier date is established, the Department will provide at least six (6) months for the owner or operator to prepare an application. A timely application for a source that is not in operation or that is not subject to the federal operating permit program as of the effective date of the federal operating permit program is one that is submitted within 12 months after the source becomes subject to the federal operating permit program.
- (B) Any federal operating permit program source required to have obtained a permit prior to construction under the ACDP program, OAR 340-28-1700 through 340-28-1790; New Source Review program, OAR 340-28-1900 through 340-28-2000; or the construction/operation modification rule, OAR 340-28-2270; shall file a complete application to obtain the federal operating permit or permit revision within 12 months after commencing operation. Commencing operation shall be considered initial startup. Where an existing federal operating permit would prohibit such

- construction or change in operation, the owner or operator shall obtain a permit revision before commencing operation.
- (C) Any federal operating permit program source owner or operator shall follow the appropriate procedures under OAR 340-28-2100 through 340-28-2320 prior to commencement of operation of a source permitted under the construction/operation modification rule, OAR 340-28-2270.
- (D) For purposes of permit renewal, a timely application is one that is submitted at least 12 months prior to the date of permit expiration, or such other longer time as may be approved by the Department that ensures that the term of the permit will not expire before the permit is renewed. If more than 12 months is required to process a permit renewal application, the Department shall provide no less than six (6) months for the owner or operator to prepare an application. In no event shall this time be greater than 18 months.
- (E) Applications for initial phase II acid rain permits shall be submitted to the Department by January 1, 1996 for sulfur dioxide, and by January 1, 1998 for nitrogen oxides.
- (F) Applications for Compliance Extensions for Early Reductions of HAP shall be submitted before proposal of an applicable emissions standard issued under section 112(d) of the FCAA and shall be in accordance with provisions prescribed in OAR 340-32-300 through 340-32-380.
- (b) Complete application.
- (A) To be deemed complete, an application shall provide all information required pursuant to OAR 340-28-2120(3). The application shall include six (6) copies of all required forms and exhibits in hard copy and one (1) copy in electronic format as specified by the Department. Applications for permit revision need to supply information required under OAR 340-28-2120(3) only if it is related to the proposed change. Information required under OAR 340-28-2120(3) shall be sufficient to evaluate the subject source and its application and to determine all applicable requirements. A responsible official shall certify the submitted information is in accordance with OAR 340-28-2120(5).
- (B) Applications which are obviously incomplete, unsigned, or which do not contain the required exhibits (clearly identified) will not be accepted by the Department for filing and shall be returned to the applicant for completion.
- (C) If the Department determines that additional information is necessary before making a completeness determination, it may request such information in writing and set a reasonable deadline for a response. The application will not be considered complete for processing until the

adequate information has been received. When the information in the application is deemed adequate, the applicant will be notified that the application is complete for processing.

- (D) Unless the Department determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in OAR 340-28-2200(1)(e). If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. If the additional information is not provided by the deadline specified, the application shall be determined to be incomplete, and the application shield shall cease to apply.
 - (E) Applications determined or deemed to be complete shall be submitted by the Department to the EPA as required by OAR 340-28-2310(1)(a).
 - (F) The source's ability to operate without a permit, as set forth in 340-28-2200(2), shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Department.
- (2) Duty to supplement or correct application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.
- (3) Standard application form and required information. Applications shall be submitted on forms and in electronic formats specified by the Department. Information as described below for each emissions unit at a federal operating permit program source shall be included in the application. An application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required. The application shall include the elements specified below:
- (a) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.
 - (b) A description of the source's processes and products (by Standard Industrial Classification Code) including any associated with each alternative operating

scenario identified by the owner or operator and related flow chart(s).

- (c) The following emissions-related information for all requested alternative operating scenarios identified by the owner or operator:
- (A) All emissions of pollutants for which the source is major, all emissions of regulated air pollutants and all emissions of pollutants listed in OAR 340-32-130. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under OAR 340-28-2120(3). The Department shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed.
 - (B) Identification and description of all points of emissions described in OAR 340-28-2120(3)(c)(A) in sufficient detail to establish the basis for fees and applicability of requirements of the FCAA and state rules.
 - (C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method and to establish PSELS for all regulated air pollutants except as restricted by OAR 340-28-1050 and OAR 340-28-1060.
 - (i) An applicant may request that a period longer than hourly be used for the short term PSEL provided that the requested period is consistent with the means for demonstrating compliance with any other applicable requirement and the PSEL requirement, and:
 - (I) The requested period is no longer than the shortest period of the Ambient Air Quality Standards for the pollutant, which shall be no longer than daily for VOC and NO_x, or
 - (II) The applicant demonstrates that the requested period, if longer than the shortest period of the Ambient Air Quality Standards for the pollutant, is the shortest period compatible with source operations.
 - (ii) The requirements of the applicable rules shall be satisfied for any requested increase in PSELS, establishment of baseline emissions rates, requested emission reduction credit banking, or other PSEL changes.
 - (D) Additional information as determined to be necessary to establish any alternative emission limit in accordance with OAR 340-28-1030, if the permit applicant requests one.
 - (E) The application shall include a list of all categorically insignificant activities and an estimate of all emissions of regulated air pollutants from those activities which are designated insignificant because of insignificant

- mixture usage or aggregate insignificant emission levels.
- (F) The following information to the extent it is needed to determine or regulate emissions: fuels, fuel sulfur content, fuel use, raw materials, production rates, and operating schedules.
 - (G) Identification and description of air pollution control equipment, including estimated efficiency of the control equipment, and compliance monitoring devices or activities.
 - (H) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the federal operating permit program source.
 - (I) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to OAR 340-28-1110).
 - (J) Calculations on which the information in items (A) through (I) above is based.
- (d) A plot plan showing the location of all emissions units identified by Universal Transverse Mercator or "UTM" as provided on United States Geological Survey maps and the nearest residential or commercial property.
- (e) The following air pollution control requirements:
- (A) Citation and description of all applicable requirements, and
 - (B) Description of or reference to any applicable test method for determining compliance with each applicable requirement.
- (f) The following monitoring, recordkeeping, and reporting requirements:
- (A) A proposed Enhanced Monitoring Protocol as required by the FCAA;
 - (B) All emissions monitoring and analysis procedures or test methods required under the applicable requirements;
 - (C) Proposed periodic monitoring to determine compliance where an applicable requirement does not require periodic testing or monitoring;
 - (D) The proposed use, maintenance, and installation of monitoring equipment or methods, as necessary;
 - (E) Documentation of the applicability of the proposed Enhanced Monitoring Protocol, such as test data and engineering calculations;
 - (F) Proposed consolidation of reporting requirements, where possible;
 - (G) A proposed schedule of submittal of all reports; and
 - (H) Other similar information as determined by the Department to be necessary to protect human health or the environment or to determine compliance with applicable requirements.
- (g) Other specific information that may be necessary to implement and enforce other applicable requirements of the FCAA or state rules or of OAR 340-28-2100 through

- 340-28-2320 or to determine the applicability of such requirements.
- (h) An explanation of any proposed exemptions from otherwise applicable requirements.
 - (i) A copy of any existing permit attached as part of the permit application with identification of which permit conditions are no longer applicable and the reason.
 - (j) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing off-permit changes for permit renewals.
 - (k) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing section 502(b)(10) changes for permit renewals.
 - (l) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing emissions trading under the PSEL including but not limited to proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable if the applicant requests such trading.
 - (m) Additional information as determined to be necessary by the Department to define permit terms and conditions implementing emissions trading, to the extent that the applicable requirements provide for trading without a case-by-case approval of each emissions trade if the applicant requests such trading.
 - (n) A compliance plan that contains all the following:
 - (A) A description of the compliance status of the source with respect to all applicable requirements.
 - (B) A description as follows:
 - (i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - (ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
 - (iii) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
 - (C) A compliance schedule as follows:
 - (i) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - (ii) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision,

- unless a more detailed schedule is expressly required by the applicable requirement.
- (iii) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance and interim measures to be taken by the source to minimize the amount of excess emissions during the scheduled period. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.
- (D) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a schedule of compliance to remedy a violation.
- (E) The compliance plan content requirements specified in this section shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the FCAA with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.
- (o) Requirements for compliance certification, including the following:
- (A) A certification of compliance with all applicable requirements by a responsible official consistent with OAR 340-28-2120(5) and section 114(a)(3) of the FCAA;
- (B) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;
- (C) A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Department; and
- (D) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the FCAA or state rules.
- (p) A Land Use Compatibility Statement (LUCS), if applicable, to assure that the type of land use and activities in conjunction with that use have been reviewed and approved by local government before a permit is processed and issued.

- (g) The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the FCAA.
- (r) For purposes of permit renewal, the owner or operator shall submit all information as required in OAR 340-28-2120(3). The owner or operator may identify information in its previous permit application for emissions units that should remain unchanged and for which no changes in applicable requirements have occurred and provide copies of the previous permit application for only those emissions units.

(4) Quantifying Emissions

- (a) When quantifying emissions for purposes of a permit application, modification, or renewal an owner or operator shall use the most representative data available or required in a permit condition. The Department shall consider the following data collection methods as acceptable for determining air emissions:
1. Continuous emissions monitoring system data obtained in accordance with the Department's Continuous Monitoring Manual (January, 1992)
 2. Source testing data obtained in accordance with the Department's Source Sampling Manual (January, 1992) except where material balance calculations are more accurate and more indicative of an emission unit's continuous operation than limited source test results (e.g. a volatile organic compound coating operation),
 3. Material balance calculations,
 4. Emission factors subject to Department review and approval,
 5. Other methods and calculations subject to Department review and approval.
- (b) When continuous monitoring or source test data has previously been submitted to and approved by the Department for a particular emissions unit, that information shall be used for quantifying emissions. Material balance calculations may be used as the basis for quantifying emissions when continuous monitoring or source test data exists if it can be demonstrated that the results of material balance calculations are more indicative of actual emissions under normal continuous operating conditions. Emission factors or other methods may be used for calculating emissions when continuous monitoring data, source test data, or material balance data exists if the owner or operator can demonstrate that the existing data is not representative of actual operating conditions. When an owner or operator uses emission factors or other methods as the basis of calculating emissions, a brief justification for the validity of the emission factor or method shall be submitted with the calculations. The Department shall review the validity of the emission factor or method during the permit application review period. When an owner or operator

collects emissions data that is more representative of actual operating conditions, either as required under a specific permit condition or for any other requirement imposed by the Department, the owner or operator shall use that data for calculating emissions when applying for a permit modification or renewal. Nothing in this provision shall require owners or operators to conduct monitoring or testing solely for the purpose of quantifying emissions for permit applications, modifications, or renewals.

- (5) Any application form, report, or compliance certification submitted pursuant to OAR 340-28-2100 through 340-28-2320 shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under OAR 340-28-2100 through 340-28-2320 shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

Standard Permit Requirements

340-28-2130 Each permit issued under OAR 340-28-2100 through 340-28-2320 shall include the following elements:

- (1) Emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance.
- (a) The permit shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
- (b) For sources regulated under the national acid rain program, the permit shall state that, where an applicable requirement of the FCAA or state rules is more stringent than an applicable requirement of regulations promulgated under Title IV of the FCAA, both provisions shall be incorporated into the permit and shall be enforceable by the EPA.
- (c) For any alternative emission limit established in accordance with OAR 340-28-1030, the permit shall contain an equivalency determination and provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
- (2) Permit duration. The Department shall issue permits for a fixed term of 5 years in the case of affected sources, and for a term not to exceed 5 years in the case of all other sources.
- (3) Monitoring and related recordkeeping and reporting requirements.
- (a) Each permit shall contain the following requirements with respect to monitoring:
- (A) A monitoring protocol to provide accurate and reliable data that:
- (i) is representative of actual source operation;
- (ii) is consistent with the averaging time in the

- (A) Records of required monitoring information that include the following:
- (i) The date, place as defined in the permit, and time of sampling or measurements;
 - (ii) The date(s) analyses were performed;
 - (iii) The company or entity that performed the analyses;
 - (iv) The analytical techniques or methods used;
 - (v) The results of such analyses;
 - (vi) The operating conditions as existing at the time of sampling or measurement; and
 - (vii) The records of quality assurance for continuous monitoring systems (including but not limited to quality control activities, audits, calibrations drifts);
- (B) Retention of records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.
- (C) Recordkeeping requirements shall commence on the date of permit issuance unless otherwise specified in the permit.
- (c) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:
- (A) Submittal of four (4) copies of reports of any required monitoring at least every 6 months, completed on forms approved by the Department. Unless otherwise approved in writing by the Department, six month periods are January 1 to June 30, and July 1 to December 31. The reports required by this rule shall be submitted within 30 days after the end of each reporting period, unless otherwise approved in writing by the Department. Two copies of the report shall be submitted to the Air Quality Division, one copy to the regional office, and one copy to the EPA. All instances of deviations from permit requirements shall be clearly identified in such reports.
 - (i) The semi-annual report shall be due on July 30, unless otherwise approved in writing by the Department, and shall include the semi-annual compliance certification, OAR 340-28-2160.
 - (ii) The annual report shall be due on February 15, unless otherwise approved in writing by the Department, but shall be due no later than March 15, and shall consist of the annual reporting requirements as specified in the permit; the emission fee report; the emission statement, if applicable, OAR 340-28-1520; the excess emissions upset log, OAR 340-28-1440; the annual certification that the risk

management plan is being properly implemented, OAR 340-32-5400; and the semi-annual compliance certification, OAR 340-28-2160.

- (B) Prompt reporting of deviations from permit requirements that do not cause excess emissions, including those attributable to upset conditions, as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. Deviations that cause excess emissions, as specified in OAR 340-28-1400 through 340-28-1460 shall be reported in accordance with OAR 340-28-1440.
- (C) Submittal of any required source test report within 30 days after the source test.
- (D) All required reports shall be certified by a responsible official consistent with OAR 340-28-2120(5).
- (E) Reporting requirements shall commence on the date of permit issuance unless otherwise specified in the permit.
- (d) The Department may incorporate more rigorous monitoring, recordkeeping, or reporting methods than required by applicable requirements in a federal operating permit if they are contained in the permit application, are determined by the Department to be necessary to determine compliance with applicable requirements, or are needed to protect human health or the environment.
- (4) A permit condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the FCAA or the regulations promulgated thereunder.

 - (a) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.
 - (b) No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.
 - (c) Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the FCAA.
- (5) A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.
- (6) Provisions stating the following:

 - (a) The permittee shall comply with all conditions of the federal operating permit. Any permit condition noncompliance constitutes a violation of the FCAA and state rules and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
 - (b) The need to halt or reduce activity shall not be a defense. It shall not be a defense for a permittee in an enforcement action that it would have been

- necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- (c) The permit may be modified, revoked, reopened and reissued, or terminated for cause as determined by the Department. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
 - (d) The permit does not convey any property rights of any sort, or any exclusive privilege.
 - (e) The permittee shall furnish to the Department, within a reasonable time, any information that the Department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Department copies of records required to be kept by the permit.
- (7) A provision to ensure that a federal operating permit program source pays fees to the Department consistent with the fee schedule.
- (8) Terms and conditions for reasonably anticipated alternative operating scenarios identified by the owner or operator in its application as approved by the Department. Such terms and conditions:
- (a) Shall require the owner or operator, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;
 - (b) Shall extend the permit shield described in OAR 340-28-2190 to all terms and conditions under each such alternative operating scenario; and
 - (c) Shall ensure that the terms and conditions of each such alternative operating scenario meet all applicable requirements and the requirements of OAR 340-28-2100 through 340-28-2320.
- (9) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with the PSEs. Such terms and conditions:
- (a) Shall include all terms required under OAR 340-28-2130 and OAR 340-28-2160 to determine compliance;
 - (b) Shall extend the permit shield described in OAR 340-28-2190 to all terms and conditions that allow such increases and decreases in emissions;
 - (c) Shall ensure that the trades are quantifiable and enforceable;
 - (d) Shall ensure that the trades are not Title I modifications;
 - (e) Shall require a minimum 7-day advance, written notification to the Department and the EPA of the trade that shall be attached to the Department's and the source's copy of the permit. The written notification shall state when the change will occur and shall describe the changes in emissions that will

- result and how these increases and decreases in emissions will comply with the terms and conditions of the permit; and
- (f) Shall meet all applicable requirements and requirements of OAR 340-28-2100 through 340-28-2320.
- (10) Terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading such increases and decreases without a case-by-case approval of each emission trade. Such terms and conditions:
- (a) Shall include all terms required under OAR 340-28-2130 and OAR 340-28-2160 to determine compliance;
 - (b) Shall extend the permit shield described in OAR 340-28-2190 to all terms and conditions that allow such increases and decreases in emissions; and
 - (c) Shall meet all applicable requirements and requirements of OAR 340-28-2100 through 340-28-2320.
- (11) Terms and conditions allowing for off-permit changes, OAR 340-28-2220(2).
- (12) Terms and conditions allowing for section 502(b)(10) changes, OAR 340-28-2220(3).

State-enforceable Requirements

340-28-2140 The Department shall specifically designate as not being federally enforceable any terms and conditions included in the permit that are not required under the FCAA or under any of its applicable requirements. Terms and conditions so designated are subject to the requirements of OAR 340-28-2120 through 340-28-2300, other than those contained in OAR 340-28-2150. All terms and conditions in a federal operating permit are enforceable by the Department.

Federally-enforceable Requirements

340-28-2150 The Department shall specifically designate as being federally enforceable under the FCAA any terms and conditions included in the permit that are required under the FCAA or under any of its applicable requirements. Federally enforceable conditions are subject to enforcement actions by the EPA and citizens.

Compliance Requirements

340-28-2160 All federal operating permits shall contain the following elements with respect to compliance:

- (1) Consistent with OAR 340-28-2130(3), compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit.
- (2) A requirement that any document (including but not limited to reports) required by a federal operating permit shall contain a certification by a responsible official or the designated representation for the acid rain portion of the permit that meets the requirements of OAR 340-28-2120(5).
- (3) Inspection and entry requirements that require that, upon

- presentation of credentials and other documents as may be required by law, the permittee shall allow the Department or an authorized representative to perform the following:
- (a) Enter upon the permittee's premises where a federal operating permit program source is located or emissions-related activity is conducted, or where records shall be kept under the conditions of the permit;
 - (b) Have access to and copy, at reasonable times, any records that shall be kept under the conditions of the permit;
 - (c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and
 - (d) As authorized by the FCAA or state rules, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.
- (4) A schedule of compliance consistent with OAR 340-28-2120(3)(n)(C).
- (5) Progress reports consistent with an applicable schedule of compliance and OAR 340-28-2120(3)(n)(C) to be submitted at least semiannually, or at a more frequent period if specified in the applicable requirement or by the Department. Such progress reports shall contain the following:
- (a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones or compliance were achieved; and
 - (b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
- (6) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:
- (a) The frequency (not less than annually or such more frequent periods as specified in the applicable requirement or by the Department) of submissions of compliance certifications;
 - (b) In accordance with OAR 340-28-2130(3), a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;
 - (c) A requirement that the compliance certification include the following:
 - (A) The identification of each term or condition of the permit that is the basis of the certification;
 - (B) The compliance status;
 - (C) Whether compliance was continuous or intermittent;
 - (D) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with OAR 340-28-2130(3);
 - (E) Any deviations from permit requirements, the probable cause of such deviations, and any

- corrective actions or preventive measures taken;
and
(F) Such other facts as the Department may require to determine the compliance status of the source;
(d) A requirement that all compliance certifications be submitted to the EPA as well as to the Department; and
(e) Such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the FCAA.
(7) Annual certification that the risk management plan is being properly implemented, OAR 340-32-5400.
(8) Such other provisions as the Department may require in order to protect human health or the environment.

General Permits

340-28-2170

- (1) The Department may, after notice and opportunity for public participation provided under OAR 340-28-2290, issue general permits covering numerous similar sources in specific source categories. General permits shall comply with all requirements applicable to other federal operating permits.
- (2) The owner or operator of an existing major HAP source which meets all of the following criteria may apply to be covered under the terms and conditions of a general permit:
- (a) the source is a major source under section 112 of the Act only;
(b) no emissions standard for existing sources, promulgated pursuant to section 112(d) of the FCAA or OAR 340-32-2500 through OAR 340-32-5000, applies to the source; and
(c) the Department does not consider the source to be a problem source based on its complaint record and compliance history.
- (3) Notwithstanding the shield provisions of OAR 340-28-2190, the source shall be subject to enforcement action for operation without a federal operating permit if the source is later determined not to qualify for the conditions and terms of the general permit. General permits shall not be authorized for affected sources under the national acid rain program unless provided in regulations promulgated under Title IV of the FCAA.
- (4) (a) Federal operating permit program sources that would qualify for a general permit shall apply to the Department for coverage under the terms of the general permit or shall apply for a federal operating permit consistent with OAR 340-28-2120.
(b) The Department may, in the general permit, provide for applications which deviate from the requirements of OAR 340-28-2120, provided that such applications meet the requirements of Title V of the FCAA and include all information necessary to determine qualification for, and compliance with, the general permit.
(c) Without repeating the public participation procedures required under OAR 340-28-2290, the Department shall grant an owner's or operator's request for

authorization to operate under a general permit if the source meets the applicability criteria for the general permit, but such a grant shall not be a final permit action for purposes of judicial review.

- (5) When an emissions limitation applicable to a general permit source is promulgated by the EPA pursuant to 112(d), or adopted by the state pursuant to OAR 340-32-500 through OAR 340-32-5000, the source shall:
- (a) immediately comply with the provisions of the applicable emissions standard; and
 - (b) (A) within 12 months of standard promulgation, apply for an operating permit, pursuant to OAR 340-28-2120, if three (3) or more years are remaining on the general permit term; or
(B) apply for an operating permit at least 12 months prior to permit expiration, pursuant to OAR 340-28-2120, if less than three (3) years remain on the general permit term.

Temporary Sources

340-28-2180 The Department may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations. The operation shall be temporary and involve at least one change of location during the term of the permit. No affected source shall be permitted as a temporary source. Permits for temporary sources shall include the following:

- (1) Conditions that will assure compliance with all applicable requirements at all authorized locations;
- (2) Requirements that the owner or operator notify the Department at least 10 days in advance of each change in location;
- (3) Conditions that assure compliance with land use compatibility; and
- (4) Conditions that assure compliance with all other provisions of OAR 340-28-2100 through 340-28-2320.

Permit Shield

340-28-2190

- (1) Except as provided in OAR 340-28-2100 through 340-28-2320, the Department shall expressly include in a federal operating permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:
 - (a) Such applicable requirements are included and are specifically identified in the permit; or
 - (b) The Department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.
- (2) A federal operating permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.

- (3) Changes made to a permit in accordance with OAR 340-28-2230(1)(h) and OAR 340-28-2260 shall be shielded.
- (4) Nothing in this rule or in any federal operating permit shall alter or affect the following:
 - (a) The provisions of ORS 468.115 (enforcement in cases of emergency) and ORS 468.035;
 - (b) The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;
 - (c) The applicable requirements of the national acid rain program, consistent with section 408(a) of the FCAA; or
 - (d) The ability of the Department to obtain information from a source pursuant to ORS 468.095 (investigatory authority, access to records).

Permit Issuance

340-28-2200

- (1) Action on application.
 - (a) A permit, permit modification, or permit renewal may be issued only if all of the following conditions have been met:
 - (A) The Department has received a complete application for a permit, permit modification, or permit renewal, except that a complete application need not be received before issuance of a general permit under OAR 340-28-2170;
 - (B) Except for modifications qualifying for minor permit modification procedures under OAR 340-28-2250, the Department has complied with the requirements for public participation under OAR 340-28-2290;
 - (C) The Department has complied with the requirements for notifying and responding to affected States under OAR 340-28-2310(2);
 - (D) The conditions of the permit provide for compliance with all applicable requirements and the requirements of OAR 340-28-2100 through 340-28-2320; and
 - (E) The EPA has received a copy of the proposed permit and any notices required under OAR 340-28-2310(1) and (2), and has not objected to issuance of the permit under OAR 340-28-2310(3) within the time period specified therein or such earlier time as agreed to with the Department if no changes were made to the draft permit.
 - (b) When a multiple-source permit includes air contaminant sources subject to the jurisdiction of the Department and the Regional Authority, the Department may require that it shall be the permit issuing agency. In such cases, the Department and the Regional Authority shall otherwise maintain and exercise all other aspects of their respective jurisdictions over the permittee.
 - (c) Denial of a Permit. If the Department proposes to deny issuance of a permit, permit renewal, permit modification, or permit amendment, it shall notify the

applicant by registered or certified mail of the intent to deny and the reasons for denial. The denial shall become effective 60 days from the date of mailing of such notice unless within that time the applicant requests a hearing. Such a request for hearing shall be made in writing to the Director and shall state the grounds for the request. Any hearing held shall be conducted pursuant to the applicable provisions of ORS Chapter 183.

- (d) The Department or Lane Regional Air Pollution Authority is the permitting authority for purposes of the 18 month requirement contained in 42 USC § 7661b(c) and this subsection. Except as provided under the initial transition plan or under regulations promulgated under Title IV of the FCAA or under OAR 340-28-2100 through 340-28-2320 for the permitting of affected sources under the national acid rain program, the Department shall take final action on each permit application (including a request for permit modification or renewal) within 18 months after receiving a complete application.
- (e) The Department shall promptly provide notice to the applicant of whether the application is complete. Unless the Department requests additional information or otherwise notifies the applicant of incompleteness within 60 days of receipt of an application, the application shall be deemed complete. For modifications processed through minor permit modification procedures, OAR 340-28-2250(2), the Department shall not require a completeness determination.
- (f) The Department shall provide a review report that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The Department shall send this report to the EPA and to any other person who requests it.
- (g) The submittal of a complete application shall not affect the requirement that any source have a Notice of Approval in accordance with OAR 340-28-2270 or a preconstruction permit in accordance with OAR 340-28-1700 through 340-28-1790 or OAR 340-28-1900 through 340-28-2000.
- (h) Failure of the Department to take final action on a complete application or failure of the Department to take final action on an EPA objection to a proposed permit within the appropriate time shall be considered to be a final order for purposes of ORS Chapter 183.
- (2) Requirement for a permit.

 - (a) Except as provided in OAR 340-28-2200(2)(b), OAR 340-28-2220(3), and OAR 340-28-2250(2)(d), no federal operating permit program source may operate after the time that it is required to submit a timely and complete application after the effective date of the program, except in compliance with a permit issued under a federal operating permit program.
 - (b) If a federal operating permit program source submits a

timely and complete application for permit issuance (including for renewal), the source's failure to have a federal operating permit is not a violation of OAR 340-28-2100 through 340-28-2320 until the Department takes final action on the permit application, except as noted in this section. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to OAR 340-28-2200(1)(e), and as required by OAR 340-28-2120(1)(b), the applicant fails to submit by the deadline specified in writing by the Department any additional information identified as being needed to process the application.

Permit Renewal and Expiration

340-28-2210

- (1) Permits being renewed are subject to the same procedural requirements, including those for public participation, affected State and the EPA review, that apply to initial permit issuance; and
- (2) Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with OAR 340-28-2200(2) and OAR 340-28-2120(1)(a)(D). If a timely and complete renewal application has been submitted, the existing permit shall remain in effect until final action has been taken on the renewal application to issue or deny a permit.

Operational Flexibility

340-28-2220 Operational flexibility provisions allow owners or operators to make certain changes at their facility without a permit modification. The following sections describe the provisions and the procedures owners or operators shall follow to utilize operational flexibility.

- (1) Alternative Operating Scenarios. Owners or operators may identify as many reasonably anticipated alternative operating scenarios in the permit application as possible and request the approval of the Department for incorporation of the scenarios in the permit.
 - (a) Alternative operating scenarios mean the different conditions, including equipment configurations or process parameters, under which a source can operate that:
 - (A) require different terms and conditions in the permit to determine compliance, or
 - (B) emit different regulated air pollutants;
 - (b) Alternative operating scenarios shall be identified in the permit application, approved by the Department; and listed in the permit.
 - (c) Changes between approved alternative operating scenarios listed in the permit can be made at any time. Owners or operators shall contemporaneously record in a log at the permitted facility any change from one alternative operating scenario to another.
 - (d) Owners or operators are not required to submit the record of changes of alternative operating scenarios

on a periodic basis but shall make the record available or submit the record upon the request of the Department.

- (e) The permit shield shall extend to all alternative operating scenarios listed in the permit.
- (2) Off-permit Changes. Changes that qualify as off-permit do not require Department approval.
 - (a) Off-permit changes mean changes to a source that:
 - (A) are not addressed or prohibited by the permit;
 - (B) are not Title I modifications;
 - (C) are not subject to any requirements under Title IV of the FCAA;
 - (D) meet all applicable requirements;
 - (E) do not violate any existing permit term or condition; and
 - (F) may result in emissions of regulated air pollutants subject to an applicable requirement, but not otherwise regulated under the permit or may result in insignificant changes as defined in OAR 340-28-110.
 - (b) Off-permit changes can be made at any time. Owners or operators shall contemporaneously submit written notice to the Department and the EPA, except for changes that qualify as insignificant under OAR 340-28-110. The written notice shall contain:
 - (A) a description of the change;
 - (B) the date on which the change will occur;
 - (C) any change in emissions within the PSELs;
 - (D) pollutants emitted;
 - (E) any applicable requirement that would apply as a result of the change;
 - (F) verification that the change is not addressed or prohibited by the permit;
 - (G) verification that the change is not a Title I modification, such as an explanation that the change does not meet any of the Title I modification criteria;
 - (H) verification that the change is not subject to any requirements under Title IV of the FCAA; and
 - (I) verification that the change does not violate any existing permit term or condition.
 - (c) The permittee shall keep a record describing off-permit changes made at the facility that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those off-permit changes.
 - (d) Written notifications of off-permit changes shall be attached to the Department's and the source's copy of the permit.
 - (e) Terms and conditions that result from off-permit changes shall be incorporated into the permit upon permit renewal, if applicable.
 - (f) The permit shield of OAR 340-28-2190 shall not extend to off-permit changes.
- (3) Section 502(b)(10) Changes. Changes that qualify as section 502(b)(10) changes do not require permit revision.

- (a) Section 502(b)(10) changes mean changes that contravene an express permit term. Such changes do not include:
 - (A) changes that would violate applicable requirements (including but not limited to increases in PSELs);
 - (B) changes that contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements; and
 - (C) changes that are not Title I modifications.
- (b) Section 502(b)(10) changes can be made at any time. Owners or operators shall submit a minimum 7-day advance, written notification to the Department and the EPA. The written notice shall contain:
 - (A) a description of the change;
 - (B) the date on which the change will occur;
 - (C) any change in emissions within the PSELs;
 - (D) any permit term or condition that is no longer applicable as a result of the change;
 - (E) any new terms or conditions applicable to the change;
 - (F) verification that the change does not cause or contribute to a violation of any applicable requirements, such as an explanation that the permit term or condition that is being contravened is not based on an applicable requirement;
 - (G) verification that the change does not cause or contribute to an exceedance of the PSELs, such as calculations of emissions resulting from the change in relation to the PSEL; and
 - (H) verification that the change is not a Title I modification, such as an explanation that the change does not meet any of the Title I modification criteria.
- (c) Written notifications of section 502(b)(10) changes shall be attached to the Department's and the source's copy of the permit.
- (d) Terms and conditions that result from section 502(b)(10) changes shall be incorporated into the permit upon permit renewal, if applicable.
- (e) The permit shield shall not extend to section 502(b)(10) changes.
- (4) The Department may initiate enforcement if a change under operational flexibility has been initiated and does not meet the applicable operational flexibility criteria.

Administrative Permit Amendments

340-28-2230

- (1) An "administrative permit amendment" is a permit revision that:
 - (a) Corrects typographical errors;
 - (b) Identifies a change in the name, address, or phone number of the responsible official(s) identified in the permit, or provides a similar minor administrative change at the source;
 - (c) Allows for a change in the name of the permittee;

- (d) Allows for a change in ownership or operational control of a source where the Department determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department;
- (e) Requires more frequent monitoring or reporting by the permittee;
- (f) Allows for a change in the date for reporting or source testing requirements for extenuating circumstances, except when required by a compliance schedule;
- (g) Relaxes monitoring, reporting or recordkeeping due to a permanent source shutdown for only the emissions unit(s) being shutdown;
- (h) Incorporates into the federal operating permit the requirements from preconstruction review permits authorized under OAR 340-28-1900 through 340-28-2000 or OAR 340-28-2270, provided that the procedural requirements followed in the preconstruction review are substantially equivalent to the requirements of OAR 340-28-2200 through 340-28-2290 and OAR 340-28-2310 that would be applicable to the change if it were subject to review as a permit modification, compliance requirements are substantially equivalent to those contained in OAR 340-28-2130 through 340-28-2190, and no changes in the construction or operation of the facility that would require a permit modification under OAR 340-28-2240 through 340-28-2260 have taken place;
- (i) Corrects baseline or PSEs when more accurate emissions data is obtained but does not increase actual emissions; or
- (j) Corrects minor misinterpretations of an applicable requirement upon Department approval.
- (2) Administrative permit amendments for purposes of the national acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the FCAA.
- (3) Administrative permit amendment procedures. An administrative permit amendment shall be made by the Department consistent with the following:
 - (a) The owner or operator shall promptly submit an application for an administrative permit amendment upon becoming aware of the need for one on forms provided by the Department along with a copy of the draft amendment.
 - (b) The Department shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and may incorporate such changes without providing notice to the public or affected States provided that it designates any such permit revisions as having been made pursuant to this rule.
 - (c) The Department shall issue the administrative permit amendment in the form of a permit addendum for only those conditions that will change.

- (d) The Department shall submit a copy of the permit addendum to the EPA.
- (e) The source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.
- (f) If the source fails to comply with its draft permit terms and conditions upon submittal of the application and until the Department takes final action, the existing permit terms and conditions it seeks to modify may be enforced against it.
- (4) The Department shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in OAR 340-28-2190 only for administrative permit amendments made pursuant to OAR 340-28-2230(1)(h) which meet the relevant requirements of OAR 340-28-2130 through 340-28-2320 for significant permit modifications.
- (5) If it becomes necessary for the Department to initiate an administrative amendment to the permit, the Department shall notify the permittee of the intended action by certified or registered mail. The action shall become effective 20 days after the date of mailing unless within that time the permittee makes a written request for a hearing. The request shall state the grounds for the hearing. Any hearing held shall be conducted pursuant to the applicable provisions of ORS Chapter 183.

Permit Modification

340-28-2240 A permit modification is any revision to a federal operating permit that cannot be accomplished under the Department's provisions for administrative permit amendments under OAR 340-28-2230. A permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the FCAA.

Minor Permit Modifications

340-28-2250

(1) Criteria.

- (a) Minor permit modification procedures may be used only for those permit modifications that:
 - (A) Do not violate any applicable requirement;
 - (B) Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
 - (C) Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
 - (D) Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

- (i) A federally enforceable emissions cap assumed to avoid classification as a Title I modification; and
- (ii) An alternative emissions limit approved pursuant to OAR 340-32-300 through 340-32-380;
- (E) Do not increase emissions over the PSEL;
- (F) Are not Title I modifications; and
- (G) Are not required by OAR 340-28-2260 to be processed as a significant modification.
- (b) Notwithstanding OAR 340-28-2250(1) (a), minor permit modification procedures may be used for permit modifications involving the use of emissions trading and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the Oregon State Implementation Plan or in applicable requirements promulgated by the EPA.
- (2) Minor permit modification procedures. A minor permit modification shall be made by the Department consistent with the following:
 - (a) Application. An application requesting the use of minor permit modification procedures shall meet the requirements of OAR 340-28-2120(3), shall be submitted on forms and electronic formats provided by the Department, and shall include the following additional information:
 - (A) A description of the change, the change in emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 - (B) The source's suggested draft permit;
 - (C) Certification by a responsible official, consistent with OAR 340-28-2120(5), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and
 - (D) Completed forms for the Department to use to notify the EPA and affected States as required under OAR 340-28-2310.
 - (b) EPA and affected State notification. Within 5 working days of receipt of a complete minor permit modification application, the Department shall meet its obligation under OAR 340-28-2310(1)(a) and (2)(a) to notify the EPA and affected States of the requested permit modification. The Department promptly shall send any notice required under OAR 340-28-2310(2)(b) to the EPA.
 - (c) Timetable for issuance. The Department shall not issue a final permit modification until after the EPA's 45-day review period or until the EPA has notified the Department that the EPA will not object to issuance of the permit modification, whichever is first, although the Department can approve the permit modification prior to that time. Within 90 days of the Department's receipt of an application under minor permit modification procedures or 15 days after the end of the EPA's 45-day review period under OAR 340-28-2310(3), whichever is later, the Department shall:

- (A) Issue the permit modification as proposed for only those conditions that will change;
 - (B) Deny the permit modification application;
 - (C) Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or
 - (D) Revise the draft permit modification and transmit to the EPA the new proposed permit modification as required by OAR 340-28-2310(1).
- (d) Source's ability to make change. The source may make the change proposed in its minor permit modification application immediately after it files an application. After the source makes the change, and until the permitting authority takes any of the actions specified in OAR 340-28-2250(2)(c)(A) through (C), the source shall comply with both the applicable requirements governing the change and the draft permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its draft permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.
- (e) The Department may initiate enforcement if the modification has been initiated and does not meet the minor permit modification criteria.
- (f) Permit shield. The permit shield under OAR 340-28-2190 shall not extend to minor permit modifications.

Significant Permit Modifications

340-28-2260

- (1) Criteria. Significant modification procedures shall be used for applications requesting permit modifications that do not qualify as minor permit modifications or as administrative amendments. Significant modifications shall include:
- (a) increases in PSEs except those increases subject to OAR 340-28-1900 through 340-28-2000; OAR 340-28-2230(1)(i); or OAR 340-28-2270;
 - (b) every significant change in existing monitoring permit terms or conditions;
 - (c) every relaxation of reporting or recordkeeping permit terms or conditions;
 - (d) incorporation into the federal operating permit the requirements from preconstruction review permits authorized under OAR 340-28-1900 through 340-28-2000 or OAR 340-28-2270 unless the incorporation qualifies as an administrative amendment; and
 - (e) Nothing herein shall be construed to preclude the permittee from making changes consistent with OAR 340-28-2100 through 340-28-2320 that would render existing permit compliance terms and conditions irrelevant.
- (2) Significant permit modifications shall be subject to all requirements of OAR 340-28-2100 through 340-28-2320,

including those for applications, public participation, review by affected States, and review by the EPA, as they apply to permit issuance and permit renewal.

- (3) Major modifications, as defined in OAR 340-28-110, shall require an ACDP under OAR 340-28-1900 through 340-28-2000.
- (4) Modifications at sources which are major hazardous air pollutant sources that cause increases of emissions of HAP greater than de minimis are subject to OAR 340-28-2270 and OAR 340-32-4500.

Construction/Operation Modifications
230-28-2270

(1) Requirement.

- (a) No owner or operator shall construct, fabricate, erect, install, establish, develop or operate a new source of regulated air pollutants of any class listed in OAR 340-28-2270(2) without first notifying the Department in writing and obtaining approval.
- (b) No owner or operator shall modify or replace any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) covered by a permit under OAR 340-28-2100 through 340-28-2320 without first notifying the Department in writing and obtaining approval if:
 - (A) Any emissions unit is changed or added to that would increase that emissions unit's potential to emit;
 - (B) Any alternative operating scenario is changed or added to that would affect the method of the compliance certification;
 - (C) The performance of any pollution control equipment used to comply with a Department requirement is degraded causing an increase of emissions (excluding routine maintenance);
 - (D) The performance of any monitoring equipment required by the Department is changed (excluding routine maintenance); or
 - (E) The source becomes subject to a new applicable requirement.

(2) Scope. This regulation shall apply to the following classes of sources of regulated air pollutants:

- (a) Any emissions unit having emissions to the atmosphere;
- (b) Any air pollution control equipment used to comply with a Department requirement;
- (c) Any monitoring equipment required by the Department.

(3) Procedure.

- (a) Notice. Any owner or operator required to obtain approval for a new, modified, or replaced source of regulated air pollutants of any class listed in OAR 340-28-2270(2) shall notify the Department in writing on a form supplied by the Department.
- (b) Submission of Plans and Specifications. The Department shall require the submission of plans and specifications for any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) being constructed or modified and its relationship to

the production process. The following information shall be required for a complete application:

- (A) Name, address, and nature of business;
 - (B) Name of local person responsible for compliance with these rules;
 - (C) Name of person authorized to receive requests for data and information;
 - (D) A description of the constructed or modified source;
 - (E) A description of the production processes and a related flow chart for the constructed or modified source;
 - (F) A plot plan showing the location and height of the constructed or modified air contaminant source. The plot plan shall also indicate the nearest residential or commercial property;
 - (G) Type and quantity of fuels used;
 - (H) The change in the amount, nature and duration of regulated air pollutant emissions;
 - (I) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
 - (J) Amount and method of refuse disposal;
 - (K) Land Use Compatibility Statement signed by a local (city or county) planner either approving or disapproving construction or modification to the source if required by the local planning agency;
 - (L) Corrections and revisions to the plans and specifications to insure compliance with applicable rules, orders and statutes; and
 - (M) Sufficient information for the Department to determine applicable emission limitations and requirements for hazardous air pollutant sources.
- (c) Notice of Approval:
- (A) For construction or modification of any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) that does not increase emissions above the PSEL:
 - (i) The Department shall, upon determining that the proposed construction or modification is, in the opinion of the Department, in accordance with the provisions of applicable rules, order, and statutes, notify the owner or operator that construction may proceed within 60 days of receipt of the required information;
 - (ii) A Notice of Approval to proceed with construction or modification shall allow the owner or operator to construct or modify the source and operate it in accordance with provisions under OAR 340-28-2220, 340-28-2230 or 340-28-2240, whichever is applicable.
 - (iii) A Notice of Approval to proceed with construction or modification shall not relieve the owner or operator of the obligation of complying with applicable emission standards and orders.
 - (B) For construction or modification of any source of

regulated air pollutants of any class listed in OAR 340-28-2270(2) that increases emissions above the PSEL:

- (i) The Department shall upon determining that the proposed construction or modification is in the opinion of the Department in accordance with the provisions of applicable rules, order, and statutes, issue public notice as to the intent to issue an approval for construction or modification within 180 days of receipt of the required information;
- (ii) The public notice shall allow at least thirty (30) days for written comment from the public, and from interested State and Federal agencies, prior to issuance of the approval. Public notice shall include the name and quantities of new or increased emissions for which permit limits are proposed, or new or increased emissions which exceed significant emission rates established by the Department.
- (iii) In addition to the information required under OAR 340-11-007, public notices for approval of construction or modification shall contain a determination of:
 - (I) Whether the proposed permitted emission would have a significant impact on a Class I airshed;
 - (II) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment or nonattainment for that pollutant; and
 - (III) For each major source within an attainment area for which dispersion modeling has been performed an indication of what impact each proposed permitted emission would have on the Prevention of Significant Deterioration Program within that attainment area.
- (iv) The owner or operator may request that the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310 be used instead of the notice procedures under paragraph (ii) and (iii) this rule to allow for subsequent incorporation of the Notice of Approval as an administrative amendment. The public notice shall state that the external review procedures are being used, if the applicant requests them.
- (v) If, within 30 days after commencement of the public notice period, the Department receives written requests from ten (10) persons, or from an organization or organizations representing at least ten persons, for a public hearing to allow interested persons to appear and submit oral or written comments on the proposed provisions, the Department shall provide such a hearing before taking final action on the

- application, at a reasonable place and time and on reasonable notice. Requests for public hearing shall clearly identify the air quality concerns in the draft permit.
- (vi) The Department shall give notice of any public hearing at least 30 days in advance of the hearing. Notice of such a hearing may be given, in the Department's discretion, either in the public notice under 340-28-2290(1) or in such other manner as is reasonably calculated to inform interested persons.
- (vii) The Department shall, upon determining that the proposed construction or modification is, in the opinion of the Department, in accordance with the provisions of applicable rules, order, and statutes, notify the owner or operator that construction may proceed after the public notice period.
- (viii) A Notice of Approval to proceed with construction or modification shall allow the owner or operator to construct or modify the source and operate it in accordance with provisions under OAR 340-28-2220, 340-28-2230, or 340-28-2240, whichever is applicable.
- (ix) A Notice of Approval to proceed with construction or modification shall not relieve the owner or operator of the obligation of complying with applicable emission standards and orders.
- (d) Order Prohibiting Construction. If within the 60 day or 180 day review period, whichever is applicable, the Director determines that the proposed construction or modification is not in accordance with applicable statutes, rules, regulations and orders, the Director shall issue an order prohibiting the construction or modification of the air contamination source. Said order is to be forwarded to the owner by certified mail.
- (e) Hearing. Pursuant to law, an owner or operator against whom an order prohibiting construction is directed may within 20 days from the date of mailing of the order, demand a hearing. The demand shall be in writing, state the grounds for hearing, and be mailed to the Director of the Department. The hearing shall be conducted pursuant to the applicable provisions of ORS Chapter 183.
- (f) Notice of Completion. Within thirty (30) days after any owner or operator has constructed or modified an air contamination source as defined under OAR 340-28-2270(2), that owner or operator shall so report in writing on a form furnished by the Department, stating the date of completion of construction or modification and the date the source was or will be put in operation.
- (g) Incorporation into a Federal Operating Permit.
- (A) Where a federal operating permit would allow incorporation of such construction or modification

- as an off-permit change [OAR 340-28-2220(2)] or a section 502(b)(10) change [OAR 340-28-2220(3)]:
- (i) The owner or operator of the air contamination source shall submit to the Department the applicable notice, and
 - (ii) The Department shall incorporate the construction or modification at permit renewal, if applicable.
- (B) Where a federal operating permit would allow incorporation of such construction or modification as an administrative amendment [OAR 340-28-2230], the owner or operator of the source may:
- (i) submit the permit application information required under OAR 340-28-2120(3) with the information required under OAR 340-28-2270(3)(b) upon becoming aware of the need for an administrative amendment; and
 - (ii) request that the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310 be used instead of the notice procedures under OAR 340-28-2270(3)(c)(B)(ii) and (iii) to allow for subsequent incorporation of the construction permit as an administrative amendment.
- (C) Where a federal operating permit would require incorporation of such construction or modification as a minor permit modification [OAR 340-28-2250] or a significant permit modification [OAR 340-28-2260], the owner or operator of the source shall submit the permit application information required under OAR 340-28-2120(3) within one year of initial startup of the construction or modification.

Reopenings

340-28-2280

- (1) Reopening for cause.
- (a) Each issued permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
 - (A) Additional applicable requirements under the FCAA or state rules become applicable to a major federal operating permit program source with a remaining permit term of 3 or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to OAR 340-28-2210.
 - (B) Additional requirements (including excess emissions requirements) become applicable to an affected source under the national acid rain program. Upon approval by the EPA, excess emissions offset plans

- shall be deemed to be incorporated into the permit.
- (C) The Department or the EPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
 - (D) The Department or the EPA determines that the permit shall be revised or revoked to assure compliance with the applicable requirements.
 - (E) The Department determines that the permit shall be revised or revoked to assure compliance with the National Ambient Air Quality Standards (NAAQS).
- (b) Proceedings to reopen and issue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.
 - (c) Reopenings under OAR 340-28-2280(1)(a) shall not be initiated before a notice of such intent is provided to the source by the Department at least 30 days in advance of the date that the permit is to be reopened, except that the Department may provide a shorter time period in the case of an emergency.
- (2) Reopening for cause by the EPA.
- (a) The Department shall, within 90 days after receipt of a notification from the EPA of reopening for cause, forward to the EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate. The EPA may extend this 90-day period for an additional 90 days if the EPA finds that a new or revised permit application is necessary or that the permittee shall submit additional information.
 - (b) The Department shall have 90 days from receipt of an EPA objection to resolve any objection that the EPA makes and to terminate, modify, or revoke and reissue the permit in accordance with the EPA's objection or determine not to reissue the permit in accordance with the EPA's objection.
 - (c) The Department shall provide at least 30 days' notice to the permittee in writing of the reasons for any such action and provide an opportunity for a hearing.
 - (d) Proceedings to terminate, revoke, or modify and reissue a permit initiated by the EPA shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable by the Department.

Public Participation

340-28-2290 Except for modifications qualifying for minor permit modification procedures and administrative amendments, all permit proceedings, including initial permit issuance, significant modifications, construction/operation modifications

when there is an increase of emissions above the PSEL, and renewals, shall provide adequate procedures for public notice including offering an opportunity for public comment and a hearing on the draft permit. These procedures shall include the following:

- (1) Notice shall be given: by publication in a newspaper of general circulation in the area where the source is located or in a Department publication designed to give general public notice; to persons on a mailing list developed by the Department, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public;
- (2) The notice shall identify:
 - (a) the affected facility;
 - (b) the name and address of the permittee;
 - (c) the name and address of the Department processing the permit;
 - (d) the activity or activities involved in the permit action;
 - (e) the emissions change involved in any permit modification;
 - (f) whether any increase in proposed permitted emissions would have a significant impact on a Class I airshed;
 - (g) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment or nonattainment for that pollutant;
 - (h) For each increase in allowable emissions of a criteria pollutant within an attainment area for which dispersion modeling has been performed an indication of what impact each proposed permitted emission would have on the PSD Program within that attainment area;
 - (i) the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft;
 - (j) the address and location of at least one place where a copy of the application, all relevant supporting materials, including any compliance plan, permit, and monitoring and compliance certification report, except for information entitled to confidential treatment, and all other materials available to the Department that are relevant to the permit decision are available for review;
 - (k) a brief description of the comment procedures required by OAR 340-28-2100 through 340-28-2320; and
 - (l) a brief description of the procedures to request a hearing or the time and place of any hearing that may be held;
- (3) The Department shall provide such notice and opportunity for participation by affected States as is provided for by OAR 340-28-2310;
- (4) Timing.
 - (a) The Department shall provide at least 30 days for public comment.
 - (b) If, within 30 days after commencement of the public notice period, the Department receives written

requests from ten (10) persons, or from an organization or organizations representing at least ten persons, for a public hearing to allow interested persons to appear and submit oral or written comments on the proposed provisions, the Department shall provide such a hearing before taking final action on the application, at a reasonable place and time and on reasonable notice. Requests for public hearing shall clearly identify the air quality concerns in the draft permit.

- (c) The Department shall give notice of any public hearing at least 30 days in advance of the hearing. Notice of such a hearing may be given, in the Department's discretion, either in the public notice under 340-28-2290(1) or in such other manner as is reasonably calculated to inform interested persons.
- (5) The Department shall consider all relevant written comments submitted within a time specified in the notice of public comment and all relevant comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision.
- (6) The Department shall keep a record of the commenters and also of the issues raised during the public participation process and such records shall be available to the public in the same location(s) as listed in OAR 340-28-2290(2)(j). Such record may be in summary form rather than a verbatim transcript.
- (7) Any person who submitted written or oral comments during the public participation process described in this rule shall be an adversely affected or aggrieved person for purposes of ORS 183.484.

Contested Permits

340-28-2300

- (1) A final permit issued by the Department shall become effective upon the date it was signed by the Air Quality Division Administrator or his or her designated representative, unless the applicant requests a hearing before the Commission or its authorized representative. A final permit issued by LRAPA shall become effective upon the date it was signed by the LRAPA Director or his or her designated representative, unless the applicant requests a hearing before LRAPA's Board of Directors.
- (2) The request for hearing must be in writing within 20 days of the date of mailing of the notification of issuance of the permit. The applicant shall specify which permit conditions are being challenged and why, including each alleged factual or legal objection.
- (3) (a) Permit conditions that are not contested, including any conditions that are severable from those contested, shall be in effect upon the date the permit

was signed by the Air Quality Division Administrator or the LRAPA Director.

- (b) Upon such request for review, the effect of the contested conditions, as well as any conditions that are not severable from those contested, shall be stayed only upon a showing that, during the pendency of the appeal, compliance with the contested conditions would require substantial expenditures or losses that would not be incurred if the applicant prevails on the merits of the review; and also that there exists a reasonable likelihood of success on the merits. The Commission may require that the contested conditions not be stayed if it finds that substantial endangerment of public health or welfare would result from the staying of the conditions. The Commission must deny or grant the stay within 30 days.
- (4) If an applicant requests a hearing pursuant to this section, then any adversely affected or aggrieved person, as those terms have been construed under ORS Chapter 183, may petition the Commission to be allowed to intervene in the contested case hearing to challenge any permit condition. This petition must be in writing and must be filed with the Commission at least 21 days before the date set for hearing. It shall specify which permit conditions are being challenged and the reasons for those challenges, including each alleged factual or legal objection.
- (5) Any hearing held under this section shall be conducted pursuant to the applicable provisions of ORS Chapter 183 and OAR Chapter 340 Division 11.

Permit Review by the EPA and Affected States

340-28-2310

- (1) Transmission of information to the EPA.
- (a) The Department shall provide to the EPA a copy of each permit application (including any application for permit modification), each proposed permit except when a draft permit has been submitted and the EPA determines that the submittal of the draft permit is adequate, and each final federal operating permit.
- (b) The requirements of OAR 340-28-2310 (1)(a) and (2)(a) may be waived for any category of sources (including any class, type, or size within such category) other than major sources if allowed by the EPA.
- (c) The Department shall keep for 5 years such records and submit to the EPA such information as the EPA may reasonably require to ascertain whether the Department program complies with the requirements of the FCAA or state rules or of OAR 340-28-2100 through 340-28-2320.
- (2) Review by affected States.
- (a) The Department shall give notice of each draft permit to any affected State on or before the time that the Department provides this notice to the public under OAR 340-28-2290, except to the extent that OAR 340-28-2250 requires the timing of the notice to be different.
- (b) The Department, as part of the submittal of the

proposed permit to the EPA (or as soon as possible after the submittal for minor permit modification procedures allowed under OAR 340-28-2250), shall notify the EPA and any affected State in writing of any omission by the Department of any recommendations for the proposed permit that the affected State submitted during the public or affected State review period. The notice shall include the Department's reasons for not accepting any such recommendation. The Department is not required to accept recommendations that are not based on applicable requirements or the requirements of OAR 340-28-2100 through 340-28-2320.

(3) EPA objection.

- (a) No permit for which an application shall be transmitted to the EPA under OAR 340-28-2310(1) shall be issued as drafted if the EPA objects to its issuance in writing within 45 days of receipt of the proposed permit and all necessary supporting information or such earlier time as agreed to by the EPA.
- (b) The Department shall, within 90 days after the date of an objection under OAR 340-28-2310(3)(a), revise and submit a proposed permit in response to the objection, or determine not to issue the permit.
- (c) If the Department determines not to issue the permit, notice of the determination shall be provided to the source by certified or registered mail.

(4) Public petitions to the EPA.

- (a) If the EPA does not object in writing under OAR 340-28-2310(3), any person may petition the EPA within 60 days after the expiration of the EPA's 45-day review period to make such objection. Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in OAR 340-28-2290, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period.
- (b) If the EPA objects to the permit as a result of a petition filed under this section, the Department shall not issue the permit until the EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to an EPA objection.
- (c) If the Department has issued a permit prior to receipt of an EPA objection under OAR 340-28-2310, the EPA will modify, terminate, or revoke such permit, and shall do so consistent with the procedures in OAR 340-28-2280(2)(b) except in unusual circumstances, and the Department may thereafter issue only a revised permit that satisfies the EPA's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

- (5) Prohibition on default issuance. The Department shall not issue a federal operating permit (including a permit renewal or modification) until affected States and the EPA have had an opportunity to review the proposed permit as required under this rule.

Enforcement

340-28-2320

- (1) Whenever it appears to the Department that any activity in violation of a permit that results in air pollution or air contamination is presenting an imminent and substantial endangerment to the public health, the Department may enter a cease and desist order pursuant to ORS 468.115 or seek injunctive relief pursuant to ORS 468.100.
- (2) (a) Whenever the Department has good cause to believe that any person is engaged in or about to engage in acts or practices that constitute a violation of any part of the rules contained in this Division or any provision of a permit issued pursuant to these rules, the Department may seek injunctive relief in court to enforce compliance thereto or to restrain further violations.
- (b) The proceedings authorized by subsection (a) of this section may be instituted without the necessity of prior agency revocation of the permit or during a permit revocation proceeding if one has been commenced.
- (3) In addition to the enforcement authorities contained in sections (1) and (2) of this rule and any other penalty provided by law, any person who violates any of the following shall incur a civil penalty as authorized under ORS 468.140 and established pursuant to Oregon Administrative Rules Chapter 340, Division 12:
- (a) Any applicable requirement;
- (b) Any permit condition;
- (c) Any fee or filing requirements;
- (d) Any duty to allow or carry out inspection, entry or monitoring activities; or
- (e) Any rules or orders issued by the Department.

Major Source Interim Emission Fees

Purpose, Scope And Applicability

~~{340-20-500}~~340-28-2400

- (1) The purpose of OAR ~~{340-20-500}~~340-28-2400 through ~~{340-20-660}~~340-28-2550 is to provide permittees, major sources, and the ~~{Department of Environmental Quality}~~Department with the criteria and procedures to determine interim emissions and fees based on calculated (1991 only), actual and permitted air emissions only for calendar years 1991 and 1992.

Note: These interim fees will be used to provide resources to cover the costs of the ~~{Department of Environmental Quality}~~Department to develop an approvable

- federal operating permit program in accordance with the Federal Clean Air Act and ORS 468A.
- (2) OAR ~~{340-20-500}~~340-28-2400 through ~~{340-20-660}~~340-28-2550 apply to major sources as defined in OAR ~~{340-20-520}~~340-28-110. The permittee may elect to pay interim emission fees on either calculated emissions (1991 only), actual emissions or permitted emissions for each assessable emission.
- (3) The interim emission fees are in addition to fees required by OAR ~~{340-20-155}~~340-28-1720 and ~~{340-20-165}~~340-28-1750.

Note: Assessment of fees for calendar years 1993 and beyond is subject to ~~{U.S. Environmental Protection Agency}~~the EPA approval of the ~~{Title V}~~federal operating program developed by the Department pursuant to Oregon Laws 1991 Chapter 752, ORS 468A, enacted by the 1991 Oregon Legislature in response to the federal Clean Air Act Amendments of 1990.

Stat. Auth.: ORS Ch. 468 & 468A
 Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-500

Policy

~~{340-20-510}~~340-28-2410 Considering that OAR ~~{340-20-500}~~340-28-2400 through ~~{340-20-660}~~340-28-2550 are retroactive and that methods were not in place for determining actual emissions for fee purposes, the ~~{Environmental Quality}~~Commission recognizes that special criteria are necessary to quantify emissions for 1991. More specific methods for data collection are consistent with the new requirements under the Clean Air Act Amendments of 1990 and appropriate for calendar year 1992 emissions.

Stat. Auth.: ORS Ch. 468 & 468A
 Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-510

Pollutants Subject to Interim Emission Fees

- ~~{340-20-530}~~340-28-2420
- (1) The Department shall assess interim emission fees on assessable emissions up to and including 4,000 tons per year of each of the following pollutants from each major source:
- (a) PM₁₀ or ~~{TSP}~~Particulate Matter as specified in section (2) of this rule,
 - (b) SO₂,
 - (c) NO_x,
 - (d) VOC,
 - (e) Lead,
 - (f) Fluoride,
 - (g) TRS, and
 - (h) Any other pollutant subject to ~~{New Source Performance Standards}~~NSPS.
- (2) If the interim emission fee on PM₁₀ emissions is based on the ~~{Plant Site Emission Limit}~~PSEL for a source that does

not have a ~~{Plant Site Emission Limit}~~PSEL for PM₁₀, the Department shall assess the interim emission fee on the ~~{Plant Site Emission Limit}~~PSEL for ~~{total suspended particulates}~~Particulate Matter.

- (3) The permittee shall determine each actual assessable emission separately.
- (4) The permittee shall pay interim emission fees on all assessable emissions from each emission source included in the permit or application review report.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; Renumbered from OAR 340-20-530

Exclusions

~~{340-20-540}~~340-28-2430

- (1) The Department shall not assess interim emission fees on:
 - (a) Pollutants regulated solely as Hazardous Air Pollutant as defined in Section 112 of the federal Clean Air Act, and
 - (b) Newly permitted major sources that have not begun initial operation.
 - (c) A former permittee who has permanently ceased operation, as indicated by cancellation of the ~~{Air Contaminant Discharge Permit}~~ACDP prior to the time of interim emission fee assessment by the Department.
- (2) The Department shall not assess interim emission fees on carbon monoxide. However, sources that emit or are permitted to emit 100 tons or more per year of carbon monoxide are subject to the interim emission fees on all other regulated air pollutants regardless of the amount of emissions of those regulated air pollutants.
- (3) The Department shall not assess interim emission fees if there are no emissions from an assessable emission for the entire calendar year.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-540

References

~~{340-20-550}~~340-28-2440 Reference documents used in OAR ~~{340-20-500}~~340-28-2400 through ~~{340-20-660}~~340-28-2550 include the ~~{Department of Environmental Quality}~~Department Source Sampling Manual and the ~~{Department of Environmental Quality}~~Department Continuous Monitoring Manual.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-550

Election For Each Assessable Emission For 1991 And 1992

~~{340-20-560}~~340-28-2450

- (1) The permittee shall make an election to pay interim

- emission fees on either calculated emissions (1991 only), actual emissions or permitted emissions for each year for each assessable emission and notify the Department in accordance with OAR ~~{340-20-580}~~340-28-2470.
- (2) For calendar year 1991 the permittee shall elect to pay interim emission fees on either:
- (a) Calculated emissions, OAR ~~{340-20-590}~~340-28-2480,
 - (b) Permitted emissions, OAR ~~{340-20-570}~~340-28-2460 and ~~{340-20-580}~~340-28-2470, or
 - (c) Actual emissions, OAR ~~{340-20-570, 340-20-580 and 340-20-600}~~340-28-2180, 340-28-2470 and 340-28-2490.
- (3) For calendar year 1992 the permittee shall elect to pay interim emission fees on either:
- (a) Actual emissions, OAR ~~{340-20-570, 340-20-580, and 340-20-600}~~340-28-2460, 340-28-2470, and 340-28-2490, or
 - (b) Permitted emissions, ~~{OAR 340-20-570}~~340-28-2460 and ~~{340-20-580}~~340-28-2470.
- (4) If a permittee fails to notify the Department of the election for an assessable emission, the Department shall assess interim emission fees for the assessable emission based on permitted emissions.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-560

Emission Reporting

~~{340-20-570}~~340-28-2460

- (1) For the purpose of assessing interim emission fees the permittee shall submit the following information on an Emission Reporting Form(s) developed by the Department for each assessable emission in tons per year, reported as follows:
- (a) PM₁₀ as PM₁₀,
 - (b) Sulfur Dioxide as SO₂,
 - (c) Oxides of Nitrogen (NO_x) as Nitrogen Dioxide (NO₂),
 - (d) Total Reduced Sulfur (TRS) as H₂S in accordance with OAR 340-25-150(15),
 - (e) ~~{Volatile Organic Compound}~~VOCs~~{(VOC)}~~ as:
 - (A) VOC for material balance emission reporting, or
 - (B) Propane (C₃H₈), unless otherwise specified by permit, or OAR Chapter 340, or a method approved by the Department, for emissions verified by source testing.
 - (f) Fluoride as F.
 - (g) Lead as Pb.
- (2) The permittee electing to pay interim emission fees on actual and calculated emissions shall report emissions as follows:
- (a) Round up to the nearest whole ton for emission values 0.5 and greater, and
 - (b) Round down to the nearest whole ton for emission values less than 0.5.
- (3) The permittee electing to pay interim emission fees on either actual or calculated emissions shall:
- (a) Submit complete information on the Emission Reporting

- Forms including all assessable emissions, emission points and sources, and
- (b) Submit documentation necessary to support emission calculations.
 - (4) The permittee electing to pay on calculated (1991 only) or actual emissions for an assessable emission shall report total emissions including those emissions in excess of 4,000 tons for each assessable emission.
 - (5) The permittee electing to pay on permitted emissions for an assessable emission shall submit a statement to the Department that they shall pay on the ~~{Plant Site Emission Limit}~~PSEL in effect for the calendar year in which they are paying, in accordance with OAR ~~{340-20-570}~~340-28-2460 and ~~{340-20-580}~~340-28-2470.
 - (6) If more than one permit is in effect for a calendar year for a major source, the permittee electing to pay on permitted emissions shall pay on the ~~{Plant Site Emission Limit}~~PSEL(s) in effect for each day of that calendar year.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-570

Emission Reporting And Interim Fee Procedures

~~{340-20-580}~~340-28-2470

- (1) The permittee shall submit the original Emission Reporting Form(s), including the permittees election for each assessable emission, to the Department by the later of either February 28 or the due date for the annual permit report for the previous calendar year.
- (2) The permittee may request that information, other than emission information, submitted pursuant to OAR ~~{340-20-500}~~340-28-2400 through ~~{340-20-660}~~340-28-2550 be treated as confidential by the Department in accordance with ORS 192.410 through 192.505.
- (3) The permittee shall allow the Department representatives access to the plant site and pertinent records at all reasonable times for the purposes of making inspections, surveys, collecting samples, obtaining data, reviewing and copying air contaminant emission discharge records and otherwise conducting all necessary functions related to the interim emission fees. The permittee shall maintain all records on site for two years from the date specified in Section (6) of this rule.
- (4) The Department may accept information submitted or request additional information from the permittee. The permittee shall submit additional calculated or actual emission information requested by the Department within thirty (30) days of receiving a request from the Department. The Department may approve a request from a permittee for an extension of time of up to thirty days to submit additional information under extenuating circumstances.
- (5) If the Department determines the actual or calculated emission information submitted for any assessable emission does not meet the criteria in OAR ~~{340-20-500}~~340-28-2400 through ~~{340-20-660}~~340-28-2550, the Department shall

- assess the interim emission fee on the permitted emission for that assessable emission.
- (6) The permittee shall submit interim emission fees payable to the Department by the later of:
 - (a) July 1 for interim emission fees from the previous calendar year, or
 - (b) Thirty (30) days after the Department mails the interim emission fee invoice.
 - (7) Department acceptance of interim emission fees shall not indicate approval of data collection methods, calculation methods, or information reported on Emission Reporting Forms. If the Department determines initial interim emission fee assessments were inaccurate or inconsistent with OAR ~~{340-20-500}~~340-28-2400 through ~~{340-20-660}~~340-28-2550, the Department may assess or refund interim emission fees up to two years after interim emission fees are received by the Department.
 - (8) The Department shall not revise a ~~{Plant Site Emission Limit}~~PSEL solely due to an interim emission fee payment.
 - (9) Permittees operating major sources pursuant to OAR 340-22-100 through OAR 340-22-220 may submit the emission reporting information in the annual permit report format provided that:
 - (a) The permittee receives Department approval prior to the annual permit report due date and prior to February 28 of the year the fee is due,
 - (b) The report is received by the Department by the due date specified in the permit, and
 - (c) All information required by OAR ~~{340-20-500}~~340-28-2400 through ~~{340-20-660}~~340-28-2550 is provided, including an indication of whether the permittee is electing to pay on permitted, calculated, or actual emissions for each assessable emission.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-580

Calculated Emissions For 1991

~~{340-20-590}~~340-28-2480 To calculate actual emissions for 1991, the permittee shall use one of the following methods:

- (1) OAR ~~{340-20-650}~~340-28-2540(9), and:
 - (a) The emission factor(s) and other criteria used by the Department and documented in the permit or application review report to establish ~~{Plant Site Emission Limit}~~PSELS to calculate assessable emission(s), or
 - (b) Emission Factors developed from at least one Department approved source test conducted since 1985.
- (2) Material balance data.
- (3) Emission data from a continuous monitoring system if:
 - (a) The system was installed and maintained and is capable of continuously monitoring pollutant emissions,
 - (b) Emissions data were recorded at a minimum of once per hour, and
 - (c) Data completeness was at least ninety percent (90%) of the scheduled operating time based on hourly data, otherwise OAR ~~{340-20-610}~~340-28-2500(2) shall be used

- to determine emissions.
- (4) Alternative emission factors approved by the Department as more representative of actual source configuration and operation in 1991, provided that the alternative factors are at least as accurate as methods used for compliance demonstration.

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-590

Actual Emissions For 1992

~~{340-20-600}~~340-28-2490 A permittee electing to pay on actual emissions for calendar year 1992 emissions shall obtain emission data and determine emissions using one of the following methods:

- (1) Continuous monitoring systems used in accordance with OAR ~~{340-20-610}~~340-28-2500,
- (2) Verified emission factors developed for that particular source in accordance with OAR ~~{340-20-650}~~340-28-2540 for:
 - (a) Each assessable emission, or
 - (b) A combination of assessable emissions if there are multiple sources venting to the atmosphere through one common emission point (eg. stack). The permittee shall have a verified emission factor plan approved by the Department prior to conducting the source testing in accordance with OAR ~~{340-20-650}~~340-28-2540,
- (3) Material balances determined in accordance with OAR ~~{340-20-620}~~340-28-2510, OAR ~~{340-20-630}~~340-28-2520, or OAR ~~{340-20-640}~~340-28-2530, or
- (4) Verified emission factors for source categories developed in accordance with OAR ~~{340-20-650}~~340-28-2540(11).

Stat. Auth.: ORS Ch. 468 & 468A
Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from 340-20-600

Determining Emissions From Continuous Monitoring Systems For 1992

- ~~{340-20-610}~~340-28-2500
- (1) If the permittee elects to report emission data using monitoring systems, the permittee shall use a monitor installed and operated in accordance with the Department's Continuous Monitoring Manual for data collected from April 1, 1992 through December 31, 1992. For data collected from January 1, 1992 through March 31, 1992, the permittee shall use data collected in accordance with permit conditions, applicable rules in OAR Chapter 340, or the Department's Continuous Monitoring Manual.
 - (2) If the permittee has continuous monitoring data that comprises less than ninety percent (90%) of the plant operating time, the actual emissions during the period when the continuous monitoring system was not operating shall be determined from 90 percentile continuous monitoring data.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-610

Determining Emissions Using Material Balance For 1992

~~340-20-620~~ 340-28-2510 The permittee may elect to use material balance to determine actual emissions:

- (1) If the amount of material added to a process less the amount consumed and/or recovered from a process can be documented in accordance with Department approved permit procedures and in accordance with OAR ~~340-20-500~~ 340-28-2400 through ~~340-20-660~~ 340-28-2550.
- (2) The permittee shall only apply material balance calculations to VOC or sulfur dioxide emissions in accordance with OAR ~~340-20-630~~ 340-28-2520 and OAR ~~340-20-640~~ 340-28-2530 respectively.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-620

Determining ~~Volatile Organic Compound~~ VOC Emissions Using Material Balance For 1992

~~340-20-630~~ 340-28-2520 The permittee may determine the amount of VOC emissions for an assessable emission by using material balance.

- (1) The permittee using material balance to calculate VOC emissions shall determine the amount of VOC added to the process, the amount of VOC consumed in the process and/or the amount of VOC recovered in the process by testing in accordance with 40 Code of Federal Regulations (CFR) Part 60 EPA Method 18, 24, 25, a material balance method, or an equivalent plant specific method specified in the ~~Air Contaminant Discharge Permit~~ ACDP using the following equation:

$$VOC_{tot} = VOC_{add} - VOC_{cons}$$

Where:

VOC_{tot} = Total VOC emissions, tons

VOC_{add} = VOC added to the process, tons

VOC_{cons} = VOC consumed and/or recovered from the process, tons

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-28-630

Determining Sulfur Dioxide Emissions Using Material Balance For 1992

~~{340-20-640}~~340-28-2530

- (1) Sulfur dioxide emissions for major sources may be determined by measuring the sulfur content of fuels and assuming that all of the sulfur in the fuel is oxidized to sulfur dioxide.
- (2) The permittee shall use ASTM methods to measure the sulfur content in fuel for each quantity of fuel burned.
- (3) The permittee shall determine sulfur dioxide emissions for each quantity of fuel burned, determining quantity by a method that is reliable for that source, by performing the following calculation:

$$\text{SO}_2 = \%S/100 \times F \times 2$$

Where:

SO_2 = Sulfur dioxide emissions for each quantity of fuel, tons

$\%S$ = Percent sulfur in the fuel being burned, % (w/w).

F = Amount of fuel burned, based on a quantity measurement, tons

2 = Pounds of sulfur dioxide per pound of sulfur

- (4) For coal-fired steam generating units the following equation shall be used by permittees to account for sulfur retention:

$$\text{SO}_{2\text{adj}} = \text{SO}_2 \times 0.97$$

Where:

$\text{SO}_{2\text{adj}}$ = Sulfur dioxide adjusted for sulfur retention (40 CFR Part 60, Appendix A, Method 19, Section 5.2)

SO_2 = Sulfur dioxide emissions from each quantity burned (OAR ~~{340-20-640}~~340-28-2530(3))

- (5) Total sulfur dioxide emissions for the year shall be the sum total of each quantity burned calculated in accordance with OAR ~~{340-20-640}~~340-28-2530(3) divided by 2000 pounds per ton.
- (6) The permittee shall keep records of the fuel received and consumed and the quantity and sulfur content for two years from the date specified in OAR ~~{340-20-580}~~340-28-2470(6).

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from

Verified Emission Factors Using Source Testing

~~{340-20-650}~~340-28-2540

- (1) To verify emission factors used to determine assessable emissions the permittee shall:
 - (a) Utilize source testing data collected in accordance with appropriate procedures or Department guidance in effect at the time the data was collected, for source test data collected from 1985 through 1991, or
 - (b) Perform source testing in accordance with the Department's Source Sampling Manual or other methods approved by the Department for source tests conducted in 1992. Source tests shall be conducted in accordance with testing procedures on file at the Department and the pretest plan submitted at least fifteen (15) days in advance and approved by the Department. All test data and results shall be submitted for review to the Department within thirty (30) days after testing.

NOTE: It is recommended that the permittee notify the Department and obtain pre-approval of the Emission Factor source testing program prior to or as part of the submittal of the first source test notification.
- (2) The permittee shall conduct or have conducted at least three compliance source tests each consisting of at least three individual test runs for a total of at least nine test runs.
- (3) The permittee shall monitor and record or have monitored and recorded applicable process and control device operating data.
- (4) The permittee shall perform or have performed a source test either:
 - (a) In each of three quarters of the year with no two successive source tests performed any closer than thirty (30) days apart, or
 - (b) At equal intervals over the operating period if the permittee demonstrates and the Department approves that:
 - (A) The process operates or has operated for part of the year, or
 - (B) The process is or was not subject to seasonal variations.
- (5) The permittee shall conduct or have conducted the source tests to test the entire range of operating levels. At least one test shall be conducted at minimum operating conditions, one test at normal or average operating levels, and one test at anticipated maximum operating levels. If the process rate is constant, all tests shall be conducted at that rate. The permittee shall submit documentation to the Department demonstrating a constant process rate.
- (6) The permittee shall determine or have determined an emission factor for each source test by dividing each test run emissions, in pounds per hour, by the applicable process rate during the source test run. At least nine

emission factors shall be plotted against the respective process rates and a regression analysis performed to determine the best fit equation and the correlation coefficient (R^2). If the correlation coefficient is less than 0.50, which would indicate that there is a relatively weak relationship between emissions and process rates, the arithmetic average and standard deviation of at least nine emission factors shall be determined.

- (7) The permittee shall determine the Emissions Estimate Adjustment Factor (EEAF) as follows:
- (a) If the correlation coefficient (R^2) of the regression analysis is greater than 0.50, the EEAF shall be $1 + (1 - R^2)$.
 - (b) If the correlation coefficient (R^2) is less than 0.50, the EEAF shall be:

$$EEAF = 1 + SD/EF_{avg}$$

Where:

SD = Standard Deviation

EF_{avg} = Average of the Emission Factors

- (8) The permittee shall determine actual emissions for interim emission fee purposes using one of the following methods:

- (a) If the regression analysis correlation coefficient is less than 0.50, the actual emissions shall be the average emission factor determined from at least nine test runs multiplied by the EEAF multiplied by the total production for the entire year, or

$$AE = EF_{avg} \times EEAF \times P$$

Where:

AE = Actual Emissions

EF_{avg} = Average of the Emission Factors

EEAF = Estimated Emissions Adjustment Factor

P = Total production for the year

- (b) If the regression analysis correlation coefficient is greater than 0.50 the following calculations shall be performed:
 - (A) Determine the average emission factor (EF) for each production rate category (maximum = EF_{max} , normal = EF_{norm} , and minimum = EF_{min}).
 - (B) Determine the total annual production and operating hours, production time (PT_{tot}), for the calendar year.
 - (C) Determine the total hours operating within the maximum production rate category (PT_{max}). The maximum production rate category is any operation rate greater than the average of at least three

- maximum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2).
- (D) Determine the total hours while operating within the normal production rate category (PT_{norm}). The normal production rate category is defined as any operating rate less than the average of at least three maximum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2) and any operating rate greater than the average of at least three minimum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2).
- (E) Determine the total hours while operating within the minimum production rate category (PT_{min}). The minimum production rate category is defined as any operating rate less than the average of at least three minimum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2).
- (F) Actual emissions equals $E_{AF} \times [PT_{max}/PT_{tot}] \times XEF_{max} + (PT_{norm}/PT_{tot}) \times XEF_{norm} + (PT_{min}/PT_{tot}) \times XEF_{min}$.
- (9) The permittee shall determine emissions during startup and shutdown, and for emissions greater than normal, during conditions that are not accounted for in the procedure(s) otherwise used to document actual emissions.
- (a) All emissions during startup and shutdown, and emissions greater than normal shall be assumed equivalent to operation without an air pollution control device, unless accurately demonstrated by the permittee and approved by the Department in accordance with OAR ~~{340-20-650}~~ 340-28-2540(9)(b), (9)(c), (9)(d), and (9)(e). The emission factor plus the EAF shall be adjusted by the air pollution control device collection efficiency as follows:

$$\text{Actual emission factor} = \frac{EF \times EAF}{1 - PCDE}$$

Where:

EF = Emission Factor

EAF = Emission Estimate Adjustment Factor

PCDE = Pollution Control Device Collection Efficiency
Unless otherwise approved by the Department, the pollution control device collection efficiencies used in this calculation shall be:

Particulate Matter:

ESP or baghouse 0.90

High energy wet scrubber 0.80

Low energy wet scrubber 0.70

Cyclonic separator 0.50

Acid gases:

Wet or dry scrubber 0.90

~~{Volatile Organic Compound}~~VOCs:

Incinerator 0.98

Carbon absorber 0.95

- (b) During process startups a Department approved source test shall be performed to determine an average startup factor. The average of at least three tests runs plus the standard deviation shall be used to determine actual emissions during startups.
- (c) During process shutdowns a Department approved source test shall be performed to determine an emission factor for shutdowns. The average of at least three test runs plus the standard deviation shall be used to determine actual emissions during shutdowns.
- (d) During routine maintenance activity the permittee shall:
 - (A) Perform routine maintenance activity during source testing for verified emission factors, or
 - (B) Determine emissions in accordance with Section (10) of this rule.
- (e) The emission factor need not be adjusted if the permittee demonstrates to the Department that the pollutant emissions do not increase during startup and shutdown, and for conditions that are not accounted for in the procedure(s) otherwise used to document actual emissions (eg. NO_x emissions during an ESP failure).
- (10) A verified emission factor developed pursuant to OAR ~~{340-20-500}~~340-28-2400 through ~~{340-20-660}~~340-28-2550 and approved by the Department can not be used if a process change occurs that would affect the accuracy of the verified emission factor.
- (11) The permittee may elect to use verified emission factors for source categories if the Department determines the following criteria are met:
 - (a) The verified emission factor for a source category shall be based on verified emission factors from at least three individual sources within the source category,
 - (b) Verified emission factors from sources within a source category shall be developed in accordance with OAR ~~{340-20-650}~~340-28-2540,
 - (c) The verified emission factors from the sources shall not differ from the mean by more than twenty percent, and

- (d) The source category verified emission factor shall be the mean of the source verified emission factors plus the average of the source emission estimate adjustment factors.

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-650

Late And Underpayment Interim Emission Fees

~~{340-20-660}~~340-28-2550

- (1) Notwithstanding any enforcement action, the permittee shall be subject to a late payment fee of:
- (a) Two hundred dollars (\$200) for payments postmarked more than seven (7) or less than thirty (30) days late, and
 - (b) Four hundred dollars (\$400) for payments postmarked on or over thirty (30) days late.
- (2) Notwithstanding any enforcement action, the Department may assess an additional fee of the greater of four hundred (\$400) or twenty percent (20%) of the amount underpaid for substantial underpayment.

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14-1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93; Renumbered from OAR 340-20-660

**DIVISION 32
HAZARDOUS AIR POLLUTANTS**

General Provisions for Stationary Sources

Policy and Purpose

340-32-100 The Environmental Quality Commission finds that certain air contaminants for which there are no ambient air quality standards may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness or to irreversible ecological damage, and are therefore considered to be hazardous air pollutants. It shall be the policy of the Commission that no person may cause, allow, or permit emissions into the ambient air of any hazardous substance in such quantity, concentration, or duration determined by the Commission to be injurious to public health or the environment. The purpose of this Division is to establish emissions limitations on sources of these air contaminants. In order to reduce the release of these hazardous air pollutants and protect public health and the environment, it is the intent of the Commission to adopt by rule within this Division the source category specific requirements that are promulgated by the EPA. Furthermore, it is hereby declared the policy of the Commission that the standards contained in this Division are considered minimum standards, and as technology advances, protection of public health and the environment warrants, more stringent standards may be adopted and applied.

Delegation of authority

340-32-110 Upon adoption, the Commission shall authorize and confer jurisdiction to the Lane Regional Air Pollution Authority to carry out, within its boundaries, the provisions of this Division.

Definitions

340-32-120 As used in this Division:

- (1) "Accidental Release" means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.
- (2) "Act" and "FCAA" mean the Federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq.
- (3) "Actual Emissions" means the mass rate of emissions of a pollutant from an emission source.
 - (a) Actual emissions shall equal the average rate at which

- the source actually emitted the pollutant 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) For newly permitted emissions sources which had not yet begun normal operation actual emissions shall equal the potential to emit of the source;
 - (c) For purposes of OAR 340-32-300 through OAR 340-32-380 actual emissions shall equal the actual rate of emissions of a pollutant, but does not include excess emissions from a malfunction, or startups and shutdowns associated with a malfunction.
- (4) "Area Source" means any stationary source which has the potential to emit hazardous air pollutants but is not a major source of hazardous air pollutants.
 - (5) "Artificially or substantially greater emissions" means abnormally high emissions such as could be caused by equipment malfunctions, accidents, unusually high production or operating rates compared to historical rates, or other unusual circumstances.
 - (6) "Base year emissions" for purposes of Early Reductions only (OAR 340-32-300), means actual emissions in the calendar year 1987 or later.
 - (7) "Commission" means the Oregon Environmental Quality commission.
 - (8) "Department" means the Department of Environmental Quality.
 - (9) "Director" means the Director of the Department or Regional authority, and authorized deputies or officers.
 - (10) "Early Reductions Unit" means a single emission point or group of emissions points defined as a unit for purposes of an alternative emissions limit issued under OAR 340-32-300 through 380.
 - (11) "Effective Date of the Program" means the date that the EPA approves the federal operating permit program submitted by the Department on a full or interim basis. In case of a partial approval, the "effective date of the program" for each portion of the program is the date of EPA approval of that portion.
 - (12) "Emission" means a release into the atmosphere of any regulated pollutant or air contaminant.
 - (13) "Emissions Limitation" and "Emissions Standard" mean a requirement adopted by the Department or regional authority, or proposed or promulgated by the Administrator of the EPA, 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.
 - (14) "Emissions unit" means any part or activity of a stationary

source that emits or has the potential to emit any regulated air pollutant.

- (a) A part of a stationary source is any machine, equipment, raw material, product, or byproduct that produces or emits air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits air pollutants. Except as described in section (d) of this definition, parts and activities may be grouped for purposes of defining an emissions unit provided the following conditions are met:
 - (A) the group used to define the emissions unit may not include discrete parts or activities to which a distinct emissions standard applies or for which different compliance demonstration requirements apply, and
 - (B) the emissions from the emissions unit are quantifiable.
 - (b) Emissions units may be defined on a pollutant by pollutant basis where applicable.
 - (c) The term emissions unit is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the FCAA.
 - (d) Parts and activities shall not be grouped for purposes of determining emissions increases from an emissions unit under OAR 340-28-1930 or OAR 340-28-1940 or for purposes of determining the applicability of a New Source Performance Standard (NSPS).
- (15) "EPA" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.
 - (16) "EPA Conditional Method" means any method of sampling and analyzing for air pollutants which has been validated by the EPA but which has not been published as an EPA reference method.
 - (17) "EPA Reference Method" means any method of sampling and analyzing for an air pollutant as described in 40 CFR Part 60, 61, and 63 (as of December 29, 1993).
 - (18) "Equipment leaks" means leaks from pumps, compressors, pressure relief devices, sampling connection systems, open ended valves or lines, valves, connectors, agitators, accumulator vessels, and instrumentation systems in hazardous air pollutant service.
 - (19) "Existing source" means any source, the construction of which commenced prior to proposal of an applicable standard under sections 112 or 129 of the FCAA.
 - (20) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.
 - (21) "Fugitive emissions" means emissions of any air contaminant that escape to the atmosphere from any point or area that is not identifiable as a stack, vent, duct or equivalent

- opening.
- (22) "Generally Available Control Technology (GACT)" means an alternative emission standard promulgated by EPA for non-major sources of hazardous air pollutants which provides for the use of control technology or management practices which are generally available.
 - (23) "Hazardous air pollutant" (HAP) means an air pollutant listed by the EPA pursuant to section 112(b) of the FCAA or determined by the Commission to cause, or reasonably be anticipated to cause, adverse effects to human health or the environment.
 - (24) "High-Risk Pollutant" means any air pollutant listed in Table 2 of OAR 340-32-340 for which exposure to small quantities may cause a high risk of adverse public health effects.
 - (25) "Major Source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The EPA may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.
 - (26) "Manufacture" as used in OAR 340-32-240 means to produce, prepare, compound, or import a substance. This includes the coincidental production of a substance as a byproduct or impurity.
 - (27) "Maximum Achievable Control Technology (MACT)" means an emission standard applicable to major sources of hazardous air pollutants that requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.
 - (28) "Modification" means any physical change in, or change in the method of operation of, a major source that increases the actual emissions of any HAP emitted by such source by more than a de minimis amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimis amount.
 - (29) "New Source" means a stationary source the construction of which is commenced after proposal of a federal MACT or the effective date of this Division, whichever is earlier.
 - (30) "Not feasible to prescribe or enforce a numerical emission limit" means a situation in which the Department determines that a pollutant or stream of pollutants listed in OAR 340-32-130 cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any state or federal law or regulation; or the application of measurement technology to

- a particular source is not practicable due to technological or economic limitations.
- (31) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatsoever.
 - (32) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air 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 is enforceable by the EPA. This section does not alter or affect the use of this section for any other purposes under the Act, or the term "capacity factor" as used in Title IV of the Act or the regulations promulgated thereunder. Secondary emissions shall not be considered in determining the potential to emit of a source.
 - (33) "Process" as used in OAR 340-32-240 means the preparation of a substance, including the intentional incorporation of a substance into a product after its manufacture, for distribution in commerce.
 - (34) "Regional authority" means Lane Regional Air Pollution Authority.
 - (35) "Regulated Air Pollutant" as used in this Division means:
 - (a) any pollutant listed under OAR 340-32-130 or OAR 340-32-5400; or
 - (b) Any pollutant that is subject to a standard promulgated pursuant to section 129 of the Act.
 - (36) "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 shall be specific, well defined, and 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 offsite support facilities which would be constructed or would otherwise increase emissions as a result of the construction of a source or modification.
 - (37) "Section 111" means that section of the FCAA that includes standards of performance for new stationary sources.
 - (38) "Section 112(b)" means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated.
 - (39) "Section 112(d)" means that subsection of the FCAA that directs the EPA to establish emission standards for sources

of hazardous air pollutants. This section also defines the criteria to be used by EPA when establishing the emission standards.

- (40) "Section 112(e) means that subsection of the FCAA that directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.
- (41) "Section 112(n) means that subsection of the FCAA that includes requirements for the EPA to conduct studies on the hazards to public health prior to developing emissions standards for specified categories of hazardous air pollutant emission sources.
- (42) "Section 112(r)" means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.
- (43) "Section 129" means that section of the FCAA that requires EPA to promulgate regulations for solid waste combustion.
- (44) "Solid Waste Incineration Unit" as used in this Division shall have the same meaning as given in section 129(g) of the FCAA.
- (45) "Stationary Source"
 - (a) as used in OAR 340-32-100 through 5000 means any building, structure, facility, or installation which emits or may emit any regulated air pollutant.
 - (b) as used in OAR 340-32-5400 means any buildings, structures, equipment, installations, or substance emitting stationary activities (1) that belong to the same industrial group, (2) that are located on one or more contiguous properties, (3) that are under the control of the same person (or persons under common control), and (4) from which an accidental release may occur.
- (46) "Use" as used in OAR 340-32-240 means the consumption of a chemical that does not fall under the definitions of "manufacture" or "process". This may include the use of a chemical as a manufacturing aid, cleaning or degreasing aid, or waste treatment aid.

List of Hazardous Air Pollutants

340-32-130 For purposes of this Division the Commission adopts by reference the pollutants, including groups of substances and mixtures, listed in section 112(b), as Hazardous Air Pollutants (Table 1).

Table 1
List of Hazardous Air Pollutants
and de minimis Emissions Rates
(OAR 340-32-130)

<u>CAS Number</u>	<u>Chemical Name</u>	<u>de minimis Emissions Rate (tons/yr)</u>
75070	Acetaldehyde	9.0
60355	Acetamide	**
75058	Acetonitrile	10.0
98862	Acetophenone	1.0
53963	2-Acetylaminofluorene	**
107028	Acrolein	0.04
79061	Acrylamide	0.02
79107	Acrylic acid	**
107131	Acrylonitrile	0.3
8107051	Allyl chloride	1.0
92671	4-Aminobiphenyl	**
62533	Aniline	1.0
90040	o-Anisidine	**
1332214	Asbestos	**
71432	Benzene	
	(including benzene from gasoline)	2.0
92875	Benzidine	0.0003
98077	Benzotrichloride	0.006
100447	Benzyl chloride	0.1
92524	Biphenyl	10.0
117817	Bis(2-ethylhexyl)phthalate (DEHP)	5.0
542881	Bis(chloromethyl)ether	0.0003
75252	Bromoform	10.0
106990	1,3-Butadiene	0.2
156627	Calcium cyanamide	10.0
105602	Caprolactam	10.0
133062	Captan	10.0
63252	Carbaryl	10.0
75150	Carbon disulfide	1.0
56235	Carbon tetrachloride	1.0
463581	Carbonyl sulfide	5.0
120809	Catechol	5.0
133904	Chloramben	**
57749	Chlordane	0.05
7782505	Chlorine	0.1
79118	Chloroacetic acid	0.1
532274	2-Chloroacetophenone	0.6
108907	Chlorobenzene	10.0
510156	Chlorobenzilate	0.4
67663	Chloroform	0.9
107302	Chloromethyl methyl ether	0.1
126998	Chloroprene	10.0

<u>CAS Number</u>	<u>Chemical Name</u>	<u>de minimis Emissions</u> <u>Rate (tons/yr)</u>
19773	Cresols/Cresylic acid (isomers and mixture)	1.0
95487	o-Cresol	1.0
108394	m-Cresol	1.0
106445	p-Cresol	1.0
98828	Cumene	10.0
94757	2,4-D, salts and esters	10.0
3547044	DDE	0.2
334883	Diazomethane	**
132649	Dibenzofurans	**
96128	1,2-Dibromo-3-chloropropane	0.008
84742	Dibutylphthalate	10.0
106467	1,4-Dichlorobenzene(p)	3.0
91941	3,3-Dichlorobenzidene	0.2
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)	0.06
542756	1,3-Dichloropropene	1.0
62737	Dichlorvos	0.2
111422	Diethanolamine	5.0
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)	**
64675	Diethyl sulfate	**
119904	3,3-Dimethoxybenzidine	5.0
60117	Dimethyl aminoazobenzene	1.0
119937	3,3-Dimethyl benzidine	0.008
79447	Dimethyl carbamoyl chloride	**
68122	Dimethyl formamide	**
57147	1,1-Dimethyl hydrazine	0.008
131113	Dimethyl phthalate	10.0
77781	Dimethyl sulfate	0.1
534521	4,6-Dinitro-o-cresol, and salts	0.1
51285	2,4-Dinitrophenol	1.0
121142	2,4-Dinitrotoluene	**
123911	1,4-Dioxane (1,4-Diethyleneoxide)	6.0
122667	1,2-Diphenylhydrazine	0.09
106898	Epichlorohydrin (1-Chloro-2,3-epoxypropane)	2.0
106887	1,2-Epoxybutane	**
140885	Ethyl acrylate	1.0
100414	Ethyl benzene	10.0
51796	Ethyl carbamate (Urethane)	**
75003	Ethyl chloride (Chloroethane)	10.0
106934	Ethylene dibromide (Dibromoethane)	0.1
107062	Ethylene dichloride(1,2-Dichloroethane)	0.8
107211	Ethylene glycol	5.0
151564	Ethylene imine (Aziridine)	**
75218	Ethylene oxide	0.2
96457	Ethylene thiourea	0.6

<u>CAS Number</u>	<u>Chemical Name</u>	<u>de minimis Emissions Rate (tons/yr)</u>
75343	Ethylidene dichloride (1,1-Dichloroethane)	1.0
50000	Formaldehyde	2.0
76448	Heptachlor	0.02
118741	Hexachlorobenzene	0.04
87683	Hexachlorobutadiene	0.9
77474	Hexachlorocyclopentadiene	0.1
67721	Hexachloroethane	5.0
822060	Hexamethylene-1,6-diisocyanate	5.0
680319	Hexamethylphosphoramide	**
110543	Hexane	10.0
302012	Hydrazine	0.004
7647010	Hydrochloric acid	10.0
7664393	Hydrogen fluoride (Hydrofluoric acid)	0.1
7783064	Hydrogen sulfide	**
123319	Hydroquinone	10.0
78591	Isophorone	10.0
58899	Lindane (all isomers)	0.05
108316	Maleic anhydride	1.0
67561	Methanol	10.0
72435	Methoxychlor	10.0
74839	Methyl bromide (Bromomethane)	10.0
74873	Methyl chloride (Chloromethane)	10.0
71556	Methyl chloroform (1,1,1-Trichloroethane)	10.0
78933	Methyl ethyl ketone (2-Butanone)	10.0
60344	Methyl hydrazine	0.06
74884	Methyl iodide (Iodomethane)	1.0
108101	Methyl isobutyl ketone (Hexone)	10.0
624839	Methyl isocyanate	0.1
80626	Methyl methacrylate	10.0
1634044	Methyl tert butyl ether	10.0
101144	4,4-Methylene bis(2-chloroaniline)	**
75092	Methylene chloride (Dichloromethane)	10.0
101688	Methylene diphenyl diisocyanate (MDI)	0.1
101779	4,4-Methylenedianiline	**
91203	Naphthalene	10.0
98953	Nitrobenzene	1.0
92933	4-Nitrobiphenyl	5.0
100027	4-Nitrophenol	5.0
79469	2-Nitropropane	0.007
684935	N-Nitroso-N-methylurea	**
62759	N-Nitrosodimethylamine	0.001
59892	N-Nitrosomorpholine	**
56382	Parathion	0.1
82688	Pentachloronitrobenzene (Quintobenzene)	0.3
87865	Pentachlorophenol	0.7
108952	Phenol	0.1

<u>CAS Number</u>	<u>Chemical Name</u>	<u>de minimis Emissions Rate (tons/yr)</u>
106503	p-Phenylenediamine	10.0
75445	Phosgene	0.1
7803512	Phosphine	5.0
7723140	Phosphorus	0.1
85449	Phthalic anhydride	5.0
1336363	Polychlorinated biphenyls (Aroclors)	0.009
1120714	1,3-Propane sultone	**
57578	beta-Propiolactone	0.1
123386	Propionaldehyde	5.0
114261	Propoxur (Baygon)	5.0
78875	Propylene dichloride (1,2-Dichloropropane)	1.0
75569	Propylene oxide	10.0
75558	1,2-Propylenimine (2-Methyl aziridine)	**
91225	Quinoline	0.006
106514	Quinone	5.0
100425	Styrene	1.0
96093	Styrene oxide	**
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin	0.0000006
79345	1,1,2,2-Tetrachloroethane	0.3
127184	Tetrachloroethylene (Perchloroethylene)	10.0
7550450	Titanium tetrachloride	0.1
108883	Toluene	10.0
95807	2,4-Toluene diamine	0.02
584849	2,4-Toluene diisocyanate	0.1
95534	o-Toluidine	**
8001352	Toxaphene (chlorinated camphene)	0.06
120821	1,2,4-Trichlorobenzene	10.0
79005	1,1,2-Trichloroethane	1.0
79016	Trichloroethylene	10.0
95954	2,4,5-Trichlorophenol	**
88062	2,4,6-Trichlorophenol	6.0
121448	Triethylamine	10.0
1582098	Trifluralin	9.0
540841	2,2,4-Trimethylpentane	5.0
108054	Vinyl acetate	**
593602	Vinyl bromide	1.0
75014	Vinyl chloride	0.2
75354	Vinylidene chloride (1,1-Dichloroethylene)	0.4
1330207	Xylenes (isomers and mixture)	10.0
95476	o-Xylenes	10.0
108383	m-Xylenes	10.0
106423	p-Xylenes	10.0

<u>CAS Number</u>	<u>Chemical Name</u>	<u>de minimis Emissions</u> <u>Rate (tons/yr)</u>
0	Antimony Compounds	5.0
0	Arsenic Compounds (inorganic including arsine)	0.005
0	Beryllium Compounds	0.008
0	Cadmium Compounds	0.01
0	Chromium Compounds	5.0
0	Cobalt Compounds	5.0
0	Coke Oven Emissions	0.03
0	Cyanide Compounds	5.0
0	Glycol ethers	5.0
0	Lead Compounds	0.6
0	Manganese Compounds	0.8
0	Mercury Compounds	5.0
0	Fine mineral fibers	**
0	Nickel Compounds	1.0
0	Polycyclic Organic Matter	**
0	Radionuclides (including radon)	**
0	Selenium Compounds	1.0

** The Department will determine a de minimis value on a case-by-case basis.

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

*1 X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or Ca(CN)₂

*2 Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-(OCH₂CH₂)_n-OR' where n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-(OCH₂CH₂)_n-OH. Polymers are excluded from the glycol category.

*3 Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

*4 Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100-C.

*5 A type of atom which spontaneously undergoes radioactive decay.

Amending the List of Hazardous Air Pollutants

340-32-140

- (1) Any person may file a petition with the Department to amend the HAP list. The petition must include at least the following information:
 - (a) name and Chemical Abstract Service number of the substance;
 - (b) quantity of the substance used and released in Oregon;
 - (c) sources or source categories emitting the substance;
 - (d) potential adverse effects of the substance on public health and the environment;
 - (e) potential exposure pathways; and
 - (f) uncertainties in the data provided.
- (2) The Department shall present this information, or other information that the Department may develop, to the Commission which will consider it along with the best available scientific information developed by the EPA, the Oregon Health Division, other states, other scientific organizations, or by any person.
- (3) The Commission shall amend the HAP list if:
 - (a) it finds there is a scientifically defensible need to add a substance not on the EPA list to protect the public health or environment;
 - (b) a chemical is added to the list by the EPA;
 - (c) a substance is deleted from the list by the EPA and the Commission finds that the substance can be deleted without causing harm to public health or the environment; or
 - (d) a substance has previously been added to the list by the Commission but not by the EPA, and the Commission finds that the substance can be deleted without causing harm to public health or the environment.

Permit Application Requirements

340-32-150 through 340-32-200 [Reserved]

Applicability

340-32-210

- (1) The provisions of this Division shall apply to any new, modified, or existing source that emits or has the potential to emit any HAP listed in Table 1 of OAR 340-32-130.
- (2) The owner or operator of the following types of sources shall comply with the standards set forth in OAR 340-32-400 through OAR 340-32-5000:
 - (a) any existing major source of HAP;
 - (b) any new major source of HAP that proposes to construct;
 - (c) any existing major source of HAP that proposes a modification;
 - (d) any existing source currently having an Air Contaminant

- (e) Discharge Permit that becomes a major source of HAP; any existing unpermitted source that becomes a major source of HAP; or
- (f) any area source of HAP for which a standard has been adopted.

Permit Application

340-32-220

- (1) The owner or operator of a HAP source shall comply with the appropriate application requirements for construction permits (OAR 340-32-230) and operating permits (OAR 340-32-240).
- (2) Notwithstanding the provisions of OAR Chapter 340, Divisions 28 and 32, no stationary source shall be required to apply for, or operate pursuant to, a federal operating permit issued under OAR 340-28-2100 through OAR 340-28-2320 solely because such source is subject to the provisions of OAR 340-32-5400, Accidental Release Prevention.

(Note: Rules specifying the full procedures and specific requirements for permitting can be found in OAR Chapter 340, Division 28.)

Permit to Construct or Modify

340-32-230

- (1) After the effective date of the program no owner or operator shall:
 - (a) construct a new major HAP source that will be subject to the federal operating permit program without obtaining an Air Contaminant Discharge Permit (ACDP) pursuant to OAR 340-28-1700 through OAR 340-28-1790 prior to construction;
 - (b) modify any existing major source of HAP operating under a federal operating permit without obtaining a preconstruction notice of approval as described in OAR 340-28-2270 prior to modifying;
 - (c) modify any existing source operating under an ACDP which will become a major HAP source after modifying, without obtaining a permit modification pursuant to OAR 340-28-1700 through OAR 340-28-1790 prior to modifying;
 - (d) modify any existing source not currently operating under any permit which will become a major HAP source after modifying, without obtaining an ACDP pursuant to OAR 340-28-1700 through OAR 340-28-1790 prior to modifying;
 - (e) modify any existing source operating under an ACDP as a synthetic minor pursuant to OAR 340-28-1740 which will become a major HAP source after modifying, without:
 - (A) obtaining a federal operating permit pursuant to OAR 340-28-2100 through OAR 340-28-2320 for those sources proposing to change an enforceable condition in the permit prior to operating as a major source; or

- (B) obtaining a modified ACDP pursuant to OAR 340-28-1700 through OAR 340-28-1790 for those sources proposing to construct or modify any emissions unit prior to construction or modification.
- (2) All applicants for construction or modification of a major source of HAP shall determine and report to the Department potential emissions of HAP listed in Table 1 (OAR 340-32-130).

**Permit to Operate
340-32-240**

- (1) After the effective date of the program no owner or operator shall operate a new, existing, or modified major source of HAP emissions without applying for an operating permit as described below.
 - (a) The following types of HAP sources:
 - (A) new major sources as described in OAR 340-32-230(a);
 - (B) existing sources operating under an ACDP as described in OAR 340-32-230(c);
 - (C) existing sources previously unpermitted as described in OAR 340-32-230(d);
 - (D) existing synthetic minor sources operating under an ACDP as described in OAR 340-32-230(e)(B);shall, within 12 months after initial startup of the construction or modification, comply with the federal operating permit application procedures of OAR 340-28-2100 through OAR 340-28-2320.
 - (b) Any existing major HAP sources as described under OAR 340-32-230(b) shall:
 - (A) immediately upon receiving its preconstruction notice of approval, comply with the operating permit procedures described under OAR 340-28-2230 Administrative Amendments, if the source has complied with the enhanced provisions of OAR 340-28-2290 and OAR 340-28-2310;
 - (B) within 12 months of commencing operation comply with the permit application procedures under OAR 340-28-2250 when the modification qualifies as a minor modification or OAR 340-28-2260 when the modification qualifies as a significant modification; or
 - (C) at the time of permit renewal comply with the permit application procedures under OAR 340-28-2220(2) when the modification qualifies as an off permit change or OAR 340-28-2220(3) when the modification qualifies as a "502(b)(10)" change.
 - (c) Any synthetic minor source as described in OAR 340-32-230(e)(A) shall, prior to commencing operation, apply for and obtain the required federal operating permit according to the procedures of OAR 340-28-2100 through OAR 340-28-2320.

- (2) All major HAP source operating permit applicants shall include in the application:
- (a) all emissions of HAP listed in Table 1 (OAR 340-32-130) in accordance with OAR 340-28-2120(3) Standard Application Form and Required Information, and OAR 340-28-2120(4) Quantifying Emissions;
 - (b) an estimate of the use of additional substances, listed in OAR 340, Chapter 135, Appendix 1 and in OAR 340-32-5400 Table 3, that are manufactured, processed, or used at the facility and that could reasonably be expected to be emitted from the source;
 - (A) The estimated annual manufacture, processing, or use of each chemical shall be reported within the following ranges: "Not Present"; "Insignificant Use" (less than 1,000 pounds); "1,001 - 10,000 pounds"; "10,000 - 20,000 pounds"; "20,001 - 50,000 pounds"; and "Over 50,000 pounds".
 - (B) The owner or operator shall provide estimates of the usage of these additional chemicals based on readily available information. The owner or operator is not required to estimate the "manufacture" of any chemical from combustion or manufacturing processes for which there are no verifiable emission factors, mass balance calculation methods, or for which no EPA approved testing, sampling, or monitoring method exists. The use of chemicals in the following categories are exempt from quantification:
 - (i) aggregate insignificant emissions as defined under OAR 340-28-110(5), categorically insignificant activities as defined under OAR 340-28-110(15), insignificant mixture usage as defined under OAR 340-28-110(50);
 - (ii) products and fuels for maintaining motor vehicles used onsite; or
 - (iii) chemicals used in a manufactured item that are not released under normal circumstances of processing at the facility;
 - (C) Nothing in paragraphs (A) or (B) above shall require a source to conduct monitoring or testing solely for the purpose of estimating annual usage of the additional substances.

General Permits

340-32-250

- (1) The owner or operator of an existing major HAP source that meets all of the following criteria may apply to be covered under the terms and conditions of a general permit for the applicable source category in accordance with OAR 340-28-2170:
- (a) the source is a major source as defined in OAR 340-32-

- 120(25) of the Act only;
 - (b) no emissions standard for existing sources, promulgated pursuant to section 112(d) or OAR 340-32-2500, applies to the source; and
 - (c) the Department does not consider the source a problem source based on the source's complaint record and compliance history.
- (2) When an emissions limitation applicable to a source with a general permit is promulgated by the EPA pursuant to 112(d), or adopted by the state pursuant to OAR 340-32-500 through OAR 340-32-2500, the source shall:
- (a) immediately comply with the provisions of the applicable emissions standard; and
 - (b) apply for an operating permit pursuant to OAR 340-28-2120 within 12 months of promulgation of an applicable emissions standard if 3 or more years are remaining on the general permit term, or at least 12 months prior to permit expiration if less than 3 years remain on the general permit term.

Quantification of Emissions

340-32-260

- (1) The owner or operator of a major source shall quantify all emissions of HAP listed in Table 1 (OAR 340-32-130) using the methods prescribed in OAR 340-28-2120(4) for purposes of permitting, compliance determination, or fee assessment.
- (2) The owner or operator of a source of HAP may elect to quantify emissions in order to establish a Plant Site Emission Limit (PSEL) for each HAP listed in Table 1 (OAR 340-32-130), in accordance with OAR 340-28-1050. The PSEL established pursuant to this provision may only be used for purposes of determining emission fees.

Compliance Extensions for Early Reductions

Applicability

340-32-300 The requirements of OAR 340-32-300 through OAR 340-32-380 apply to an owner or operator of an existing source who wishes to obtain a compliance extension and an alternative emission limit from a standard issued under section 112(d) of the FCAA. Any owner or operator of a facility who elects to comply with a compliance extension and alternative emission limit issued under this section must complete a permit application as prescribed in OAR 340-32-310.

Permit Application Procedures for Early Reductions

340-32-310

- (1) To apply for an alternative emission limitation under OAR-340-32-300, an owner or operator of the source shall file a permit application with the Department.

- (2) The permit application shall contain a demonstration of early reduction in HAP emissions as prescribed in OAR-340-32-340 and shall comply with additional permit application procedures as prescribed in OAR 340-28-2100 through OAR 340-28-2320.
- (3) Permit applications for Early Reductions shall be submitted prior to the date of proposal of an otherwise applicable standard issued under section 112(d) of the Act.
- (4) If a source test is the supporting basis for establishing post-reduction emissions for one or more emission points in the source but the test results are not available by the deadline for submittal of a permit application the owner or operator shall provide the supporting basis no later than 120 days after the applicable deadline for submittal of the permit application
- (5) The Department shall review and decide on permit applications for early reductions according to the provisions of OAR 340-28-2100 through 2320.

General Provisions for Compliance Extensions

340-32-320

- (1) The Department shall by permit, issued in accordance with OAR 340-28-2100 through 2320, allow an existing source to meet an alternative emission limitation for an Early Reductions Unit in lieu of an emission limitation promulgated under section 112(d) of the FCAA for a period of six years from the compliance date of the otherwise applicable standard provided the owner or operator demonstrates:
 - (a) according to the requirements of OAR 340-32-340 that the source has achieved a reduction of at least 90 percent (95 percent or more in the case of HAP that are particulate) in emissions of:
 - (A) total HAP from the source; or
 - (B) total HAP from the source as adjusted for high-risk pollutant weighing factors (Table 2), if applicable.
 - (b) that such reduction was achieved before the otherwise applicable standard issued under section 112(d) of the FCAA was first proposed.
- (2) A source granted an alternative emission limitation shall comply with an applicable standard issued under section 112(d) of the FCAA immediately upon expiration of the six year compliance extension period specified in section (1) of this rule.
- (3) For each facility issued a permit under section (1) of this rule, there shall be established as part of the permit an enforceable alternative emission limitation for HAP for each Early Reductions Unit reflecting the reduction that qualified the Early Reductions Unit for the alternative emission limitation.
- (4) Any source that has received an alternative emissions limit

from EPA, either pursuant to 40 CFR 63.75 Enforceable Commitments dated December 29, 1992, or as a Title V specialty permit, shall have the alternative emission limit(s) incorporated as an applicable requirement in its operating permit pursuant to OAR 340-28-2230 upon permit issuance or renewal.

- (5) If a source fails to submit a timely and complete application according to OAR 340-28-2120, or does not adequately demonstrate the required reductions in emissions pursuant to OAR 340-32-340, the Department shall not approve the source's application for a compliance extension and alternative emission limit, and the source is required to comply with any applicable emission standard established pursuant to 112(d) of the FCAA by the compliance date prescribed in the applicable standard.

Determination of Early Reductions Unit

340-32-330

An alternative emission limitation may be granted under this section to an existing Early Reductions Unit as defined below provided that the source achieves the 90 percent (or 95% in the case of particulate emissions) reduction in base year HAP emissions. For the purposes of compliance extensions for early reductions only, an "Early Reductions Unit" includes any of the following:

- (1) a building structure, facility, or installation identified as a source under any proposed or promulgated standard issued under 112(d) of the FCAA;
- (2) all portions of an entire contiguous plant site under common ownership or control that emit hazardous air pollutants;
- (3) any portion of an entire contiguous plant site under common ownership or control that emits HAP and can be identified as a facility, building, structure, or installation for the purposes of establishing standards under section 112(d) of the FCAA; or
- (4) any individual emission point or combination of emission points within a contiguous plant site under common control, provided that the base year emissions of HAP from such point or aggregation of points is at least 10 tons per year where the total base year emissions of HAP from the entire contiguous plant site is greater than 25 tons, or at least 5 tons per year where the total base year emissions of HAP from the entire contiguous plant site is equal to or less than 25 tons.

Demonstration of Early Reduction

340-32-340

- (1) For purposes of determining emissions for Early Reductions, "Actual emissions" means the actual rate of emissions of a pollutant, but does not include excess emissions from a malfunction, or startups and shutdowns associated with a

malfunction. Actual emissions shall be calculated using the source's actual operating rates, and types of materials processed, stored, or combusted during the selected time period.

- (2) An owner or operator applying for an alternative emission limitation shall demonstrate achieving early reductions as required by OAR 340-32-320(1) by following the procedures in this rule.
- (3) An owner or operator shall establish the Early Reductions Unit for the purposes of a compliance extension and alternative emission limit by documenting the following information:
 - (a) a description of the Early Reductions Unit including a site plan of the entire contiguous plant site under common control that contains the Early Reductions Unit, markings on the site plan locating the parts of the site that constitute the Early Reductions Unit, and the activity at the Early Reductions Unit that causes HAP emissions;
 - (b) a complete list of all emission points of HAP in the Early Reductions Unit, including identification numbers and short descriptive titles; and
 - (c) a statement showing that the Early Reductions Unit conforms to one of the allowable definition options from OAR 340-32-330. For an Early Reductions Unit conforming to the option in OAR 340-32-330(4), the total base year emissions from the Early Reductions Unit, as determined pursuant to this section, shall be demonstrated to be at least:
 - (A) 5 tons per year, for cases in which total HAP emissions from the entire contiguous plant site under common control are 25 tons per year or less as required under section (12) of this rule; or
 - (B) 10 tons per year in all other cases.
- (4) An owner or operator shall establish base year emissions for the Early Reductions Unit by providing the following information:
 - (a) the base year chosen, where the base year shall be 1987 or later;
 - (b) the best available data accounting for actual emissions, during the base year, of all HAP from each emission point listed in the Early Reductions Unit in subsection (3)(b) of this rule;
 - (c) the supporting basis for each emission number provided in subsection (4)(b) of this rule including:
 - (A) For test results submitted as the supporting basis, a description of the test protocol followed, any problems encountered during the testing, a discussion of the validity of the method for measuring the subject emissions, and evidence that the testing was conducted in accordance with the Department's Source Sampling

- Manual or Continuous Monitoring Manual; and
 - (B) For calculations based on emission factors, material balance, or engineering principles and submitted as the supporting basis, a step-by-step description of the calculations, including assumptions used and their bases, and a brief rationale for the validity of the calculation method used; and
 - (d) Evidence that the emissions provided under section (4)(b) of this rule are not artificially or substantially greater than emissions in other years prior to implementation of emission reduction measures.
- (5) An owner or operator shall establish post-reduction emissions by providing the following information:
 - (a) For the emission points listed in the Early Reductions Unit in subsection (3)(b) of this rule a description of all control measures employed to achieve the emission reduction required by OAR 340-32-320(1)(a);
 - (b) The best available data on an annual basis accounting for actual emissions, after the base year and following employment of emission reduction measures, of all HAP from each emission point in the Early Reductions Unit listed in subsection (3)(b) of this rule;
 - (c) The supporting basis for each emission number provided in subsection (5)(b) of this rule including:
 - (A) For test results submitted as the supporting basis, a description of the test protocol followed, any problems encountered during the testing, a discussion of the validity of the method for measuring the subject emissions, and evidence that the testing was conducted in accordance with the Department's Source Sampling Manual or Continuous Monitoring Manual; and
 - (B) For calculations based on emission factors, material balance, or engineering principles and submitted as the supporting basis, a step-by-step description of the calculations, including assumptions used and their bases, and a brief rationale for the validity of the calculation method used;
 - (d) Evidence that all emission reductions used for the early reductions demonstration were achieved prior to proposal of an applicable standard issued under section 112(d) of the FCAA.
 - (e) Evidence that there was no increase in radionuclide emissions from the source.
- (6) (a) An owner or operator shall demonstrate that both total base year emissions and total base year emissions adjusted for high-risk pollutants (Table 2), as applicable, have been reduced by at least 90 percent for gaseous HAP emitted and 95 percent for particulate HAP emitted by determining the following for gaseous

and particulate emissions separately:

- (A) Total base year emissions, calculated by summing all base year emission data from subsection (4)(b) of this rule;
 - (B) Total post-reduction emissions, calculated by summing all post-reduction emission data from subsection (5)(b) of this rule;
 - (C) Total base year emissions adjusted for high-risk pollutants, calculated by multiplying each emission number for a pollutant from subsection (4)(b) of this rule by the appropriate weighing factor for the pollutant from Table 2 and then summing all weighted emission data; and
 - (D) Total post-reduction emissions adjusted for high-risk pollutants, calculated by multiplying each emission number for a pollutant from subsection (5)(b) of this rule by the appropriate weighing factor for the pollutant from Table 2 and then summing all weighted emission data.
 - (E) Percent reductions, calculated by dividing the difference between base year and post-reduction emissions by the base year emissions. Separate demonstrations are required for total gaseous and particulate emissions, and total gaseous and particulate emissions adjusted for high-risk pollutants.
- (b) If any points in the source emit both particulate and gaseous pollutants, as an alternative to the demonstration required in subsection (6)(a) of this rule, an owner or operator may demonstrate:
- (A) A weighted average percent reduction for all points emitting both particulate and gaseous pollutants where the weighted average percent reduction is determined by

$$\%_w = \frac{0.9(\sum M_g) + 0.95(\sum M_p)}{\sum M_g + \sum M_p} \times 100$$

where $\%_w$ = the required weighted percent reduction
 $\sum M_g$ = the total mass rate (eg., kg/yr) of all gaseous emissions
 $\sum M_p$ = the total mass rate of all particulate emissions

and,

- (B) The reductions required in subsection (6)(a) of this rule for all other points in each Early Reductions Unit.

Table 2
List of Early Reductions High-Risk Pollutants
(OAR 340-32-340)

<u>CAS Number</u>	<u>Chemical Name</u>	<u>Weighing Factor</u>
53963	2-Acetylaminofluorene	100
107028	Acrolein	100
79061	Acrylamide	10
79107	Acrylic acid	10
107131	Acrylonitrile	10
1332214	Asbestos	100
71432	Benzene	10
92875	Benzidine	1000
542881	Bis(chloromethyl) ether	1000
106990	1,3-Butadiene	10
57749	Chlordane	100
532274	2-Chloroacetophenone	100
107302	Chloromethyl methyl ether	10
334883	Diazomethane	10
132649	Dibenzofurans	10
96128	1,2-Dibromo-3-chloropropane	10
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)	10
79447	Dimethylcarbamoyl chloride	100
122667	1,2-Diphenylhydrazine	10
106934	Ethylene dibromide	10
151564	Ethylenimine (Aziridine)	100
75218	Ethylene oxide	10
76448	Heptachlor	100
118741	Hexachlorobenzene	100
77474	Hexachlorocyclopentadiene	100
302012	Hydrazine	100
101688	Methylene diphenyl diisocyanate (MDI)	10
60344	Methyl hydrazine	10
624839	Methyl isocyanate	10
62759	N-Nitrosodimethylamine	100
684935	N-Nitroso-N-methylurea	1000
56382	Parathion	10
75445	Phosgene	10
7803512	Phosphine	10
7723140	Phosphorus	10
75558	1,2-Propylenimine	100
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin	100,000
8001352	Toxaphene (chlorinated camphene)	100
75014	Vinyl chloride	10

<u>CAS Number</u>	<u>Chemical Name</u>	<u>Weighing Factor</u>
0	Arsenic compounds	100
0	Beryllium compounds	10
0	Cadmium compounds	10
0	Chromium compounds	100
0	Coke oven emissions	10
0	Manganese compounds	10
0	Mercury compounds	100
0	Nickel compounds	10

- (7) If lower rates or hours are used to achieve all or part of the emission reduction, any HAP emissions that occur from a compensating increase in rates or hours from the same activity elsewhere within the plant site that contains the Early Reductions Unit shall be counted in the post-reduction emissions from the Early Reductions Unit. If emission reductions are achieved by shutting down process equipment and the shutdown equipment is restarted or replaced anywhere within the plant site, any hazardous air pollutant emissions from the restarted or replacement equipment shall be counted in the post-reduction emissions for the Early Reductions Unit.
- (8) The best available data representing actual emissions for the purpose of establishing base year or post-reduction emissions under this rule shall consist of documented results from source tests using an EPA Reference Method, EPA Conditional Method, or the owner's or operator's source test method that has been validated pursuant to Method 301 of **40 CFR Chapter I Part 63 Appendix A**, dated June 1992. However, if one of the following conditions exists, an owner or operator may submit, in lieu of results from source tests, calculations based on engineering principles, emission factors, or material balance data as actual emission data for establishing base year or post-reduction emissions:
- (a) no applicable EPA Reference Method, EPA Conditional Method, or other source test method exists;
 - (b) it is not technologically or economically feasible to perform source tests;
 - (c) it can be demonstrated to the satisfaction of the Department that the calculations will provide emission estimates of accuracy comparable to that of any applicable source test method;
 - (d) for base year emission estimates only, the base year conditions no longer exist at an emission point in the Early Reductions unit and emission data could not be produced for such an emission point, by performing source tests under currently existing conditions and converting the test results to reflect base year conditions, that is more accurate than an estimate produced by using engineering principles, emission

- factors, or a material balance; or
- (e) the emissions from one or a set of emission points in the Early Reductions Unit are small compared to total Early Reductions Unit emissions and potential errors in establishing emissions from such points will not have a significant effect on the accuracy of total emissions established for the Early Reductions Unit.
- (9) For base year or post-reduction emissions established under this rule that are not supported by source test data, the source owner or operator shall include the reason source testing was not performed.
 - (10) In cases where emission control measures have been employed less than a year prior to demonstrating emission reductions under this rule, an owner or operator shall extrapolate post-reduction emission rate data to an annual basis and shall describe the extrapolation method as part of the supporting basis required under section (5) of this rule.
 - (11) The EPA average emission factors for equipment leaks cannot be used under this subpart to establish base year emissions for equipment leak Early Reductions Units, unless the base year emission number calculated using the EPA average emission factors for equipment leaks also is used as the post-reduction emission number for equipment leaks from the Early Reductions Unit.
 - (12) A source owner or operator shall not establish base year or post-reduction emissions that include any emissions from the Early Reductions Unit exceeding allowable emission levels specified in any applicable law, regulation, or permit condition.
 - (13) For Early Reductions Units subject to paragraph (3)(c)(A) of this rule, an owner or operator shall document total base year emissions from an entire contiguous plant site under common control by providing the following information for all HAP from all emission points in the contiguous plant site under common control:
 - (a) a complete list of all emission points of HAP;
 - (b) the best available data accounting for all HAP emissions during the base year from each HAP emission point;
 - (c) total base year emissions calculated by summing all base year emissions data from (b) of this section.
 - (14) If a new pollutant is added to the list of HAP or high-risk pollutants, any source emitting such pollutant will not be required to revise an early reduction demonstration pursuant to this rule if alternative emission limits have previously been specified by permit for the Early Reductions Unit as provided for in OAR 340-32-320(1).

Review of Base Year Emissions

340-32-350

- (1) Pursuant to the procedures of this rule, the Department shall review and approve or disapprove base year emissions

- data submitted in a permit application from an applicant that wishes to participate in the early reduction program. A copy of the permit application shall also be submitted to the EPA Region 10 Office.
- (2) Within 30 days of receipt of base year emission data, the Department shall advise the applicant that:
 - (a) The base year emission data are complete as submitted; or
 - (b) The base year emission data are not complete and include a list of deficiencies that must be corrected before review can proceed.
 - (3) Within 60 days of a determination that a base year emission data submission is complete, the Department shall evaluate the adequacy of the submission with respect to the requirements of OAR 340-32-340(2) through (4) and either:
 - (a) Propose to approve the submission and publish a notice in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice, providing the aggregate base year emission data for the source and the rationale for the proposed approval, noting the availability of the nonconfidential information contained in the submission for public inspection in at least one location in the community in which the source is located, providing for a public hearing upon request by at least 10 interested persons, and establishing a 30 day public comment period that can be extended to 60 days upon request by at least 10 interested persons; or
 - (b) Propose to disapprove the base year emission data and give notice to the applicant of the reasons for the disapproval. An applicant may correct disapproved base year data and submit revised data for review in accordance with this subsection, except that the review of a revision shall be accomplished within 30 days.
 - (4) If no adverse public comments are received by the reviewing agency on proposed base year data for a source, the data shall be considered approved at the close of the public comment period and a notice of the approval shall be sent to the applicant and published by the reviewing agency by advertisement in the area affected.
 - (5) If adverse public comments are received and the Department agrees that corrections are needed, the Department shall give notice to the applicant of the disapproval and reasons for the disapproval. An applicant may correct disapproved base year emission data and submit revised emission data. If a revision is submitted by the applicant that, to the satisfaction of the Department, takes into account the adverse comments, the Department will publish by advertisement in the area affected a notice containing the approved base year emission data for the source and send notice of the approval to the applicant.
 - (6) If adverse public comments are received and the Department

determines that the comments do not warrant changes to the base year emission data, the Department will publish by advertisement in the area affected a notice containing the approved base year emission data for the source and the reasons for not accepting the adverse comments. A notice of the approval also shall be sent to the applicant.

Early Reduction Demonstration Evaluation

340-32-360

- (1) The Department will evaluate an early reduction demonstration submitted by the source owner or operator in a permit application with respect to the requirements of OAR 340-32-340.
- (2) An application for a compliance extension may be denied if, in the judgement of the Department, the owner or operator has failed to demonstrate that the requirements of OAR 340-32-340 have been met. Specific reasons for denial include, but are not limited to:
 - (a) The information supplied by the owner or operator is incomplete;
 - (b) The required 90 percent reduction (95 percent in cases where the HAP is particulate matter) has not been demonstrated;
 - (c) The base year or post-reduction emissions are incorrect, based on methods or assumptions that are not valid, or not sufficiently reliable or well documented to determine with reasonable certainty that required reductions have been achieved; or
 - (d) The emission of HAP or the performance of emission control measures is unreliable so as to preclude determination that the required reductions have been achieved or will continue to be achieved during the extension period.

Approval of Applications

340-32-370

- (1) If an early reduction demonstration is approved and other requirements for a complete permit application are met, the Department shall establish by a permit issued pursuant to OAR 340-28-2100 through 2320, enforceable alternative emissions limitations for each Early Reductions Unit reflecting the reduction which qualified the Early Reductions Unit for the extension. However, if it is not feasible to prescribe a numerical emissions limitation for one or more emission points in the Early Reductions Unit, the Department shall establish such other requirements, reflecting the reduction which qualified the Early Reductions Unit for an extension, in order to assure the source achieves the 90 percent or 95 percent reduction, as applicable.
- (2) An alternative emissions limitation or other requirement prescribed pursuant to section (1) of this rule shall be

effective and enforceable immediately upon issuance of the permit for the source and shall expire exactly six years after the compliance date of an otherwise applicable standard issued pursuant to section 112(d) of the Act.

Rules for Special Situations

340-32-380

- (1) If more than one standard issued under section 112(d) of the FCAA would be applicable to an Early Reductions Unit as defined under OAR 340-32-330, then the date of proposal referred to in OAR 340-32-310(3), OAR 340-32-320(1)(b), and OAR 340-32-340(5)(d), is the date the first applicable standard is proposed.
- (2) Sources emitting radionuclides are not required to reduce radionuclides by 90 (95) percent. Radionuclides may not be increased from the source as a result of the early reductions demonstration.

Emission Standards

340-32-400 through 340-32-490 [Reserved]

Emissions Limitation for New Major Sources

340-32-500

- (1) Federal MACT. Any person who proposes to construct a major source of HAP after an applicable emissions standard has been proposed by the EPA pursuant to section 112(d), section 112(n), or section 129 of the FCAA shall comply with the requirements and emission standard for new sources when promulgated by EPA.
- (2) State MACT. Any person who proposes to construct a major source of hazardous air pollutants before MACT requirements applicable to that source have been proposed by the EPA and after the effective date of the program shall comply with new source MACT requirements determined by the Department on a case-by-case basis.
 - (a) In establishing a State MACT the Department shall require the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where achievable) that the Department, taking into consideration the cost of achieving such emission reductions, and any non-air quality health and environmental impacts and energy requirements, determines is achievable through application of processes, methods, systems, or techniques including, but not limited to, emissions reduction measures that:
 - (A) reduce the volume of, or eliminate emissions of, HAP through process changes, substitution of materials or other modifications;
 - (B) enclose systems or processes to eliminate

- emissions;
 - (C) collect, capture or treat HAP emissions when released from the process, stack, storage or fugitive emissions point;
 - (D) are design, equipment, work practice, or operational standards, including requirements for operator training or certification; or
 - (E) are a combination of the above.
- (b) The owner or operator of the proposed major source must demonstrate to the Department that the source shall achieve at least the maximum degree of emissions reduction that is achieved in practice by the best controlled similar source.
- (c) If, after a permit has been issued, the EPA promulgates a MACT standard applicable to a source which is more stringent than the one established pursuant to this section, the Department shall revise the permit upon the next renewal to reflect the standard promulgated by the EPA. The source shall be given a reasonable time to comply, but no longer than 8 years after the standard is promulgated.
- (d) The Department shall not establish a case-by-case State MACT:
- (A) for new solid waste incineration units where an emissions standard will be established for these units by the EPA pursuant to section 111 of the FCAA. These sources are subject to applicable emissions standards under OAR Chapter 340, Division 25.
 - (B) for new major HAP sources where an emissions standard or alternative control strategy will be established by the EPA pursuant to section 112(n) of the FCAA.
- (3) Compliance schedule. The owner or operator of the proposed major source must demonstrate to the Department that the source will achieve the required emissions limitation prior to commencing operation.
- (4) Residual emissions.
- (a) The owner or operator of the proposed major source shall assess whether its actual emissions of each listed HAP, after complying with any emissions limitation in section (1) or (2) of this rule, would be less than the de minimis amounts listed in Table 1 (OAR 340-32-130). This requirement shall apply only to increases in emissions from the new emissions units.
 - (b) If the actual emissions of any listed HAP exceeds the de minimis quantity for that HAP then the owner or operator of the source shall notify the Department in the Permit to Construct application which of the following options the owner or operator chooses for addressing residual emissions:
 - (A) propose additional emissions reduction measures to

- reduce residual HAP emissions that, if approved by the Department, shall be included as permit terms or conditions;
- (B) provide an air quality analysis to the Department showing impacts from residual emissions; or
 - (C) propose no additional emissions reduction measures and will provide additional information when requested, for the Department to evaluate the source's residual emissions.
- (c) The Department may request additional information from the owner or operator. The information requested shall be necessary for determining additional control measures or for conducting an air quality analysis. The Department shall determine if residual emissions have been adequately addressed to protect public health and the environment and may propose rule making to require additional emission reduction measures on a case-by-case basis.
- (d) Additional emissions reduction measures may include:
- (A) those listed in subsection 2(a) of this rule regardless of cost;
 - (B) equipment shutdown or additional controls on other emissions units within the facility; or
 - (C) reductions in releases to other environmental media.

340-32-510 through 340-32-2490 [Reserved]

Emissions Limitation for Existing Major Sources

340-32-2500

- (1) Federal MACT. Existing major sources shall comply with the applicable emissions standards for existing sources promulgated by the EPA pursuant to section 112(d), section 112(n), or section 129 of the FCAA and adopted by rule within this Division.
- (2) State MACT. After the effective date of the program, if the EPA fails to meet its schedule for promulgating a MACT standard for a source category, the Department shall approve HAP emissions limitations for existing major sources within that category on a case-by-case basis.
 - (a) Within 18 months of written notification by the Department of the applicability of a MACT standard the owner or operator of each existing major source within that category shall notify the Department whether that source will:
 - (A) achieve at least the maximum degree of emissions reduction that is achieved in practice by the best controlled similar source, using measures listed in, but not limited to, OAR 340-32-500(2); or
 - (B) achieve at least the average emissions limitation achieved in practice by the best performing 12

- percent of existing sources for sources in a category or subcategory with 30 or more sources nationwide, or at least the average emissions limitation achieved by the best performing five sources in a category or subcategory with fewer than 30 sources nationwide, using measures listed in, but not limited to, OAR 340-32-500(2).
- (b) Within 18 months of notification by the Department of the applicability of a MACT standard the owner or operator of each existing major source within that category shall file a permit application in accordance with OAR 340-32-240, proposing an emissions limitation. In addition to the permit application requirements of OAR 340-32-220 the applicant shall include an analysis of:
 - (A) each reduction technique considered;
 - (B) the emissions reduction it would provide; and
 - (C) its technical and economic feasibility.
 - (c) If, after a permit has been issued, the EPA promulgates a MACT standard applicable to a source which is more stringent than the one established pursuant to this section, the Department shall revise the permit upon the next renewal to reflect the standard promulgated by the EPA. The source shall be given a reasonable time to comply, but no longer than 8 years after the standard is promulgated.
 - (d) The Department shall not establish a case-by-case State MACT:
 - (A) for existing solid waste incineration units where an emissions standard will be established for these units by the EPA pursuant to section 111 of the FCAA. These sources are subject to applicable emissions standards under OAR Chapter 340, Division 25.
 - (B) for existing major HAP sources where an emissions standard or alternative control strategy will be established by the EPA pursuant to section 112(n) of the FCAA.
- (3) Compliance schedule.
- (a) The owner or operator of the source shall comply with the emission limitation:
 - (A) within the time frame established in the applicable Federal MACT standard, but in no case later than three years from the date of federal promulgation of the applicable MACT requirements; or
 - (B) within the time frame established by the Department where a State determined MACT has been established or a case-by-case determination has been made.
 - (b) The owner or operator of the source may apply for, and the Commission may grant, a compliance extension of up

to one year if such additional period is necessary for the installation of controls.

- (c) Notwithstanding the requirements of this section, no existing source that has installed Best Available Control Technology (defined in Division 28) or been required to meet Lowest Achievable Emission Rate (defined in Division 28) prior to the promulgation of a federal MACT applicable to that emissions unit shall be required to comply with such MACT standard until 5 years after the date on which such installation or reduction has been achieved, as determined by the Department.

340-32-2510 through 340-32-4490 [Reserved]

Requirements for Modifications of Existing Major Sources

340-32-4500

- (1) After the effective date of the program, no person may modify a major source of HAP in such a way as to start emitting or increase potential emissions of any HAP by more than its de minimis quantity listed in Table 1 (OAR 340-32-130) without applying the MACT emissions limitation for that source category.
- (2) Where no applicable emissions limitation has been promulgated by the EPA and adopted as a rule within this Division, the Department shall determine on a case-by-case basis whether the Emissions Limitation for New Major Sources (OAR 340-32-500(2)) or the Emissions Limitation for Existing Major Sources (OAR 340-32-2500(2)) applies to the modified emissions unit.
- (3) Residual emissions.
- (a) The owner or operator of the proposed major source shall assess whether its actual emissions of each listed HAP, after complying with any emissions limitation in section (1) or (2) of this rule, would be less than the de minimis amounts listed in Table 1 (OAR 340-32-130). This requirement shall apply only to increases in emissions from the new emissions units.
- (b) If the actual emissions of any listed HAP exceeds the de minimis quantity for that HAP then the owner or operator of the source shall notify the Department in the Permit to Construct application which of the following options the owner or operator chooses for addressing residual emissions:
- (A) propose additional emissions reduction measures to reduce residual HAP emissions that, if approved by the Department, shall be included as permit terms or conditions;
- (B) provide an air quality analysis to the Department showing impacts from residual emissions; or
- (C) propose no additional emissions reduction measures and will provide additional information when

requested, for the Department to evaluate the source's residual emissions.

- (c) The Department may request additional information from the owner or operator. The information requested shall be necessary for determining additional control measures or for conducting an air quality analysis. The Department shall determine if residual emissions have been adequately addressed to protect public health and the environment and may propose rule making to require additional emission reduction measures on a case-by-case basis.
- (d) Additional emissions reduction measures may include:
 - (A) those listed in OAR 340-32-500(2)(a) regardless of cost;
 - (B) equipment shutdown or additional controls on other emissions units within the facility; or
 - (C) reductions in releases to other environmental media.

Requirements for Area Sources

340-32-5000

- (1) **Applicability**

After the effective date of the program the requirements of sections (2) and (3) of this rule shall apply to:

 - (a) area sources for which EPA has promulgated, and the Department has adopted, a GACT standard; or
 - (b) area sources for which an emissions limitation has been developed and adopted by the Department.
- (2) **Permit Requirements.** All area sources subject to GACT standards promulgated by EPA, or emission limitations developed by the Department and adopted as rule by the Commission, are temporarily deferred from the requirement to obtain a federal operating permit until such time as the Department determines how the program should be structured and completes rule making.
- (3) **Emissions Limitation for Area Sources**
 - (a) Generally Available Control Technology (GACT) may take the form of control technology requirements or performance standards. GACT may include, but is not limited to, work practice modifications, material substitutions, pollution prevention techniques, alternative technology, process changes, or other options, as well as emissions control technologies. In some cases GACT may be identical to MACT for major HAP sources in the same source category.
 - (b) Any person who proposes to operate an area source after a GACT standard has been promulgated by EPA shall comply with the applicable GACT requirements.
 - (c) Any person who proposes to operate an area source after the Commission has adopted an emissions limitation, shall comply with the applicable requirements.

340-32-5100 through 340-32-5390 [Reserved]

Accidental Release Prevention

340-32- 5400

- (1) List. For purposes of this rule the Commission adopts by reference the List of Regulated Substances and Thresholds for Accidental Release Prevention 40 CFR Part 68 proposed January 19, 1993. (Table 3)

Table 3
List of Regulated Toxic and Flammable Substances
For Purposes of Accidental Release Prevention
(OAR 340-32-5100)

Part A - Regulated Toxic Substances

<u>CAS Number</u>	<u>Chemical Name</u>	<u>Threshold Quantity (lbs)</u>
75865	Acetone cyanohydrin	5000
107028	Acrolein	1000
107131	Acrylonitrile	10000
814686	Acrylyl chloride	1000
107186	Allyl alcohol	5000
107119	Allylamine	1000
7664417	Ammonia (anhydrous)	1000
7664417	Ammonia (aqueous sol'n, conc. >20%)	5000
62533	Aniline	5000
7783702	Antimony pentafluoride	1000
7784341	Arsenous trichloride	5000
7784421	Arsine	500
98873	Benzal chloride	1000
98168	Benzenamine,3-(trifluoromethyl-)	1000
98077	Benzotrichloride	500
100447	Benzyl chloride	1000
140294	Benzyl cyanide	1000
10294345	Boron trichloride	1000
7637072	Boron trifluoride	1000
353424	Boron trifluoride with methyl ether (1:1)	5000
7726956	Bromine	1000
75150	Carbon disulfide	10000
7782505	Chlorine	1000
10049044	Chlorine dioxide	500
107073	Chloroethanol	1000
67663	Chloroform	10000
542881	Chloromethyl ether	500
107302	Chloromethyl methyl ether	1000
4170303	Crotonaldehyde	10000
123739	Crotonaldehyde, (E)-	10000
506774	Cyanogen chloride	1000
108918	Cyclohexylamine	5000

<u>CAS Number</u>	<u>Chemical Name</u>	<u>Threshold Quantity (lbs)</u>
19287457	Diborane	500
110576	Trans-1,4-dichlorobutene	1000
111444	Dichloroethyl ether	10000
75785	Dimethyldichlorosilane	1000
57147	Dimethylhydrazine	5000
2524030	Dimethyl phosphorochloridothioate	1000
106898	Epichlorohydrin	10000
107153	Ethylenediamine	10000
151564	Ethyleneimine	1000
75218	Ethylene oxide	5000
7782414	Fluorine	500
50000	Formaldehyde	500
107164	Formaldehyde cyanohydrin	5000
110009	Furan	1000
302012	Hydrazine	5000
7647010	Hydrochloric acid (sol'n, conc. $\geq 25\%$)	5000
74908	Hydrocyanic acid	500
7647010	Hydrogen chloride (anhydrous)	1000
7664393	Hydrogen fluoride	500
7722841	Hydrogen peroxide (conc. $> 52\%$)	5000
7783075	Hydrogen selenide	500
7783064	Hydrogen sulfide	1000
13463406	Iron, pentacarbonyl-	500
78820	Isobutyronitrile	10000
108236	Isopropyl chloroformate	5000
78977	Lactonitrile	5000
126987	Methacrylonitrile	1000
74839	Methyl bromide	5000
74873	Methyl chloride	10000
79221	Methyl chloroformate	1000
60344	Methyl hydrazine	5000
624839	Methyl isocyanate	1000
74931	Methyl mercaptan	1000
556649	Methyl thiocyanate	10000
75796	Methyltrichlorosilane	1000
13463393	Nickel carbonyl	500
7697372	Nitric acid	5000
10102439	Nitric oxide	1000
98953	Nitrobenzene	10000
56382	Parathion	1000
79210	Peracetic acid	1000
594423	Perchloromethylmercaptan	1000
108952	Phenol	10000
75445	Phosgene	500
7803512	Phosphine	1000
10025873	Phosphorus oxychloride	1000
7719122	Phosphorus trichloride	5000
110894	Piperidine	5000
107120	Propionitrile	1000
109615	Propyl chloroformate	5000

<u>CAS Number</u>	<u>Chemical Name</u>	<u>Threshold Quantity (lbs)</u>
75558	Propyleneimine	10000
75569	Propylene oxide	10000
140761	Pyridine,2-methyl-5-vinyl-	1000
7446095	Sulfur dioxide	1000
664939	Sulfuric acid	5000
7783600	Sulfur tetrafluoride	1000
7446119	Sulfur trioxide	1000
75741	Tetramethyllead	1000
509148	Tetranitromethane	1000
108985	Thiophenol	1000
7550450	Titanium tetrachloride	500
584849	Toluene 2,4-diisocyanate	1000
91087	Toluene 2,6-diisocyanate	1000
26471625	Toluene diisocyanate (unspecified isomer)	1000
115219	Trichloroethylsilane	1000
75774	Trimethylchlorosilane	1000
108054	Vinyl acetate monomer	5000
75014	Vinyl chloride	10000

Part B - Regulated Flammable Substances

<u>CAS Number</u>	<u>Chemical Name</u>	<u>Threshold Quantity (lbs)</u>
75070	Acetaldehyde	10000
74862	Acetylene	10000
598732	Bromotrifluoroethylene	10000
25167673	Butene	10000
106978	Butane	10000
106989	1-Butane	10000
107017	2-Butene	10000
106990	1,3-Butadiene	10000
590181	2-Butene-cis	10000
624646	2-Butene-trans	10000
463581	Carbon oxysulfide	10000
557982	2-Chloropropylene	10000
590216	1-Chloropropylene	10000
7791211	Chlorine monoxide	10000
460195	Cyanogen	10000
75194	Cyclopropane	10000
4109960	Dichlorosilane	10000
75376	Difluoroethane	10000
124403	Dimethylamine	10000
463821	2,2-Dimethylpropane	10000
74840	Ethane	10000
74851	Ethylene	10000
75047	Ethylamine	10000
107006	Ethyl acetylene	10000
60297	Ethyl ether	10000

<u>CAS Number</u>	<u>Chemical Name</u>	<u>Threshold Quantity (lbs)</u>
75003	Ethyl chloride	10000
75081	Ethyl mercaptan	10000
109955	Ethyl nitrite	10000
1333740	Hydrogen	10000
75285	Isobutane	10000
78784	Isopentane	10000
78795	Isoprene	10000
75296	Isopropyl chloride	10000
75310	Isopropylamine	10000
74828	Methane	10000
107313	Methyl formate	10000
115106	Methyl ether	10000
563451	3-Methyl-1-butene	10000
563462	2-Methyl-1-butene	10000
115117	2-Methylpropene	10000
174895	Methylamine	10000
504609	1,3-Pentadiene	10000
109660	Pentane	10000
109671	1-Pentene	10000
627203	2-Pentene(Z)	10000
646048	2-Pentene, (E)	10000
74986	Propane	10000
463490	Propadiene	10000
115071	Propylene	10000
7803625	Silane	10000
116143	Tetrafluoroethylene	10000
75763	Tetramethylsilane	10000
10025782	Trichlorosilane	10000
79389	Trifluorochloroethylene	10000
75503	Trimethylamine	10000
75025	Vinyl fluoride	10000
107255	Vinyl methyl ether	10000
75354	Vinylidene chloride	10000
75387	Vinylidene fluoride	10000
109922	Vinyl ethyl ether	10000
689974	Vinyl acetylene	10000

- (2) Risk Management Plan. The owner or operator of a stationary source at which a substance listed in Table 3 of this rule is present in greater than the threshold quantity shall prepare and implement a written risk management plan to detect and prevent or minimize accidental releases, and to provide a prompt emergency response to any such releases in order to protect human health and the environment.
- (3) Compliance. The owner or operator of a stationary source required to prepare and implement a risk management plan under section (2) of this rule shall:
- register the risk management plan with the EPA;
 - submit copies of the risk management plan to the U.S.

Chemical Safety and Hazard Identification Board, the Department, and the Oregon Office of Emergency Management; and

- (c) submit as part of the compliance certification required under OAR 340-28-2160, annual certification to the Department that the risk management plan is being properly implemented.
- (4) Compliance schedule.
- (a) The owner or operator of a stationary source shall prepare and implement a risk management plan under section (2) of this rule according to the schedule promulgated by the EPA.
 - (b) The owner or operator of a stationary source that adds a listed substance or exceeds the threshold shall prepare and implement a risk management plan according to the schedule promulgated by the EPA.

340-32-5500 through 340-32-6000 [Reserved]

DIVISION 20

GENERAL AIR POLLUTION CONTROL
REGULATIONS**Highest and Best Practicable Treatment and Control Required**

~~340-20-001 [Notwithstanding the general and specific emission standards and regulations contained in this Division, the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations, visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of new sources of air contamination, particularly those located in areas with existing high air quality, the degree of treatment and control provided shall be such that degradation of existing air quality is minimized to the greatest extent possible.]~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; AQ-1 1993, f. & ef. 3-9-93]~~ **Renumbered to 340-28-6001**

Registration**Registration in General**

~~340-20-005 [Any air contaminant source not subject to the Air Contaminant Discharge Permit rules, OAR 340-20-140 through 340-20-185, shall register with the Department upon request pursuant to OAR 340-20-005 through 340-20-015.]~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ-1 1993, f. & ef. 3-9-93]~~ **Renumbered to 340-28-5001**

Registration Requirements**340-20-010 {**

- ~~(1) Registration shall be completed within 30 days following the mailing date of the request by the Department.~~
- ~~(2) Registration shall be made on forms furnished by the Department and completed by the owner, lessee of the source, or agent.~~
- ~~(3) The following information shall be reported by registrants:

 - ~~(a) Name, address, and nature of business;~~
 - ~~(b) Name of local person responsible for compliance with these rules;~~
 - ~~(c) Name of person authorized to receive requests for data and information;~~
 - ~~(d) A description of the production processes and a related flow chart;~~
 - ~~(e) A plot plan showing the location and height of all air contaminant sources. The plot plan shall also indicate the nearest residential or commercial property;~~
 - ~~(f) Type and quantity of fuels used;~~
 - ~~(g) Amount, nature, and duration of air contaminant emissions;~~
 - ~~(h) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;~~
 - ~~(i) Any other information requested by the Department.~~~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93]~~ **[Renumbered to 340-28-510]**

Re-registration

340-20-015 {

- ~~(1) Once a year upon the annual date of registration, a person responsible for an air contaminant source shall reaffirm in writing the correctness and current status of the information furnished to the Department.~~
- ~~(2) Any change in any of the factual data reported under OAR 340-20-010(3) shall be reported to the Department, at which time re-registration may be required on forms furnished by the Department.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93]~~ **[Renumbered to 340-28-520]**

Notice of Construction and Approval of Plans]

Requirement

~~340-20-020 [No person shall construct, install, or establish a new source of air contaminant emission of any class listed in OAR 340-20-025(1) and not under the jurisdiction of a regional air quality control authority without first notifying the Department in writing.]~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93]~~ **[Renumbered to 340-28-800]**

Scope

340-20-025 {

- ~~(1) This regulation shall apply to the following classes of sources of air contaminant emission:
 - ~~(a) Air pollution control equipment;~~
 - ~~(b) Fuel burning equipment rated at 400,000 BTU per hour or greater;~~
 - ~~(c) Refuse burning equipment rated at 50 pounds per hour or greater;~~
 - ~~(d) Open burning operations;~~
 - ~~(e) Process equipment having emission to the atmosphere;~~
 - ~~(f) Such other sources as the Department may determine to be potentially significant sources of air contamination.~~~~
- ~~(2) New construction, installation or establishment includes:
 - ~~(a) Addition to or enlargement or replacement of an air contamination source;~~
 - ~~(b) A major alteration or modification of an air contamination source that may significantly affect the emission of air contamination.~~~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 37, f. 2-15-72, ef. 3-1-72; AQ 1-1993, f. & ef. 3-9-93]~~ **[Renumbered to 340-**

Procedure

340-20-030 {

- (1) ~~Notice of Construction. Any person intending to construct, install, or establish a new source of air contaminant emissions of a class listed in OAR 340-20-025(1) shall notify the Department in writing on a form supplied by the Department.~~
- (2) ~~Submission of Plans and Specifications. The Department may within 30 days of receipt of a Notice of Construction require the submission of plans and specifications for air pollution control equipment and facilities and their relationship to the production process. The following information may also be required:~~
 - (a) ~~Name, address, and nature of business;~~
 - (b) ~~Name of local person responsible for compliance with these rules;~~
 - (c) ~~Name of person authorized to receive requests for data and information;~~
 - (d) ~~A description of the production processes and a related flow chart;~~
 - (e) ~~A plot plan showing the location and height of all air contaminant sources. The plot plan shall also indicate the nearest residential or commercial property;~~
 - (f) ~~Type and quantity of fuels used;~~
 - (g) ~~Amount, nature and duration of air contaminant emissions;~~
 - (h) ~~Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;~~
 - (i) ~~Amount and method of refuse disposal;~~
 - (j) ~~The Department may require corrections and revisions to the plans and specifications to insure compliance with applicable rules, orders and statutes.~~
- (3) ~~Notice of Approval:~~
 - (a) ~~The Department shall upon determining that the proposed construction is in the opinion of the Department in accordance with the provisions of applicable rules, order, and statutes, notify the person concerned that construction may proceed;~~
 - (b) ~~A Notice of Approval to proceed with construction shall not relieve the owner of the obligation of complying with applicable emission standards and orders.~~
- (4) ~~Order Prohibiting Construction:~~
 - (a) ~~If within 60 days of receipt of the items set forth in section (2) of this rule the Director determines that the proposed construction is not in accordance with applicable statutes, rules, regulations and orders, the Director shall issue an order prohibiting the construction; installation or establishment of the air contamination source. Said order is to be forwarded to the owner by certified mail;~~
 - (b) ~~Failure to issue such order within the time prescribed herein shall be considered a determination that the proposed construction, installation, or establishment may proceed; provided that it is in accordance with plans, specifications, and any corrections or revisions thereto, or other information, if any, previously submitted, and provided further that it shall not relieve the owner of the obligation of complying with applicable emission standards and orders.~~
- (5) ~~Hearing. Pursuant to law, a person against whom an order prohibiting construction is directed may within 20 days from the date of mailing of the order, demand a hearing. The demand shall be in writing, state the grounds for hearing, and be mailed to the Director of the Department of Environmental Quality. The hearing shall be conducted pursuant to the applicable provisions of ORS Chapter 183.~~
- (6) ~~Notice of Completion. Within thirty (30) days after any person has constructed an air contamination source as defined under OAR 340-20-010(1), he shall so report in writing on a form furnished by the Department, stating the date of completion of construction and the date the source was or will be put in operation.~~

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

~~Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 168 & 168A~~

~~Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 5 1989, f. 1-21-89 & cert. ef. 5-1-89; AQ 1 1993, f. & ef. 3-9-93]~~ **[Renumbered to 340-32-820]**

Compliance Schedules

~~340-20-032~~ {

- ~~(1) The Department shall attempt to encourage voluntary cooperation of all persons responsible for an air contamination source, as defined by ORS 468A.005(4). To facilitate this cooperation and provide for a progressive program of air pollution control, the Department may negotiate with such persons a schedule of compliance. The schedule will set forth the dates and terms and conditions by which the person responsible for an air contamination source shall comply with applicable air quality rules or statutes:
 - ~~(a) The schedule may be in lieu of a hearing and shall be in writing and signed by the Director of the Department or his designated officer and an authorized agent of the person responsible for the air contamination source. After the schedule is executed by both parties, it shall be confirmed by order of the Department;~~
 - ~~(b) Compliance schedules providing for final compliance at a date later than 18 months from the date of execution shall contain requirements for periodic reporting and increments of progress toward compliance, at intervals of less than 18 months;~~
 - ~~(c) No compliance schedule shall allow emissions on a permanent basis in excess of applicable standards and rules.~~~~
- ~~(2) In the event a negotiated schedule of compliance cannot be established, the Department may set a show cause hearing as provided by ORS 468.090 at a date and time designated as to why an order implementing a schedule proposed by the Department should not be adopted, or take such other authorized action as may be warranted.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; AQ 1 1993, f. & ef. 3-9-93]~~ **[Renumbered to 340-28-700]**

Sampling, Testing and Measurement of Air Contaminant Emissions

Program

~~340-20-035 [As part of its coordinated program of air quality control and preventing and abating air pollution, the Department of Environmental Quality may:~~

- ~~(1) Require any person responsible for emissions of air contaminants to make or have made tests to determine the type, quantity, quality, and duration of the emissions from any air contamination source.~~
- ~~(2) Require full reporting of all test procedures and results furnished to the Department in writing and signed by the person or persons responsible for conducting the tests.~~
- ~~(3) Require continuous monitoring of specified air contaminant emissions and periodic regular reporting of the results of such monitoring.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

Stack Heights and Dispersion Techniques

340-20-037 {

- ~~(1) Title 40, Code of Federal Regulations, Parts 51.100(ff) through 51.100(kk), 51.118, 51.160 through 51.166, as published on July 1, 1991, is by this reference adopted and incorporated herein, concerning stack heights and dispersion techniques.~~
- ~~(2) In general, the rule prohibits the use of excessive stack height and certain dispersion techniques when calculating compliance with ambient air quality standards. The rule does not forbid the construction and actual use of excessively tall stacks, nor use of dispersion techniques; it only forbids their use in calculations as noted above.~~
- ~~(3) The rule has the following general applicability. With respect to the use of excessive stack height, stacks 65 meters high or greater, constructed after December 31, 1970, and major modifications to existing plants after December 31, 1970 with stacks 65 meters high or greater which were constructed before that date, are subject to this rule, with the exception that certain stacks at federally owned, coal fired steam electric generating units constructed under a contract awarded before February 8, 1974, are exempt. With respect to the use of dispersion techniques, any technique implemented after December 31, 1970, at any plant is subject to this rule. However, if the plant's total allowable emissions of sulfur dioxide are less than 5,000 tons per year, then certain dispersion techniques to increase final exhaust gas plume rise are permitted to be used when calculating compliance with ambient air quality standards for sulfur dioxide:
 - ~~(a) Where found in the federal rule, the term "reviewing agency" means the Department of Environmental Quality (DEQ), Lane Regional Air Pollution Authority (LRAPA), or the U.S. Environmental Protection Agency (EPA), as applicable;~~
 - ~~(b) Where found in the federal rule, the term "authority administering the State Implementation Plan" means DEQ, LRAPA, or EPA;~~
 - ~~(c) The "procedures" referred to in 40 CFR 51.18(1) are the New Source Review procedures at DEQ (OAR 340-20-220 to 340-20-276) or at LRAPA (Title 38), and the review procedures for new, or modifications to, minor sources, at DEQ (OAR 340-20-020 to 340-20-030, 340-20-140 to 340-20-185) or at LRAPA (Title 34 and OAR 38-045);~~
 - ~~(d) Where "the state" or "state, or local control agency" is referred to in 40 CFR 51.12(j), it means DEQ or LRAPA;~~
 - ~~(e) Where 40 CFR 51.1(kk) refers to the prevention of significant deterioration program and cites 40 CFR 51.24, it means the EPA approved new source review rules of DEQ or LRAPA (see 40 CFR 52.1987), where they cover prevention of significant deterioration;~~
 - ~~(f) Where found in the federal rule, the terms "applicable state implementation plan" and "plan" refer to the programs and rules of DEQ or LRAPA, as approved by EPA, or any EPA promulgated regulations (see 40 CFR Part 52, Subpart MM)~~~~

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

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 11-1986, f. & ef. 5-12-86; AQ 1-1993, f. & ef. 3-9-93~~][Renumbered to 340-28-1110]

Methods

340-20-040 {

- ~~(1) Any sampling, testing, or measurement performed under this regulation shall conform to methods~~

~~contained in the Department of Environmental Quality's Source Sampling Manual or to recognized applicable standard methods approved in advance by the Department.~~

- (2) ~~The Department may approve any alternative method of sampling provided it finds that the proposed method is satisfactory and complies with the intent of these regulations and is at least equivalent to the uniform recognized procedures in objectivity and reliability, and is demonstrated to be reproducible, selective, sensitive, accurate and applicable to the program.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

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

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93]~~ **Renumbered to 340-28-1120]**

Department Testing

~~340-20-045 [The Department, instead of requesting tests and sampling of emissions from the person responsible for an air contamination source, may conduct such tests alone or in conjunction with said person. If the testing or sampling is performed by the Department, a copy of the results shall be provided to the person responsible for the air contamination source.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; AQ 1-1993, f. & ef. 3-9-93]~~ **Renumbered to 340-28-1130]**

Records; Maintaining and Reporting

340-20-046 {

- (1) ~~Upon notification from the Director of the Department of Environmental Quality, all persons owning or operating a stationary air contaminant source within the state shall commence to keep and maintain written records of the nature, type and amounts of emissions from such source and other information as may be required by the Director to determine whether such is in compliance with applicable emission rules, limitations or other control measures.~~
- (2) ~~The records shall be prepared in the form of a report and submitted to the Department of Environmental Quality on a semi-annual basis commencing with the first full semi-annual period after the Director's notification to such persons owning or operating a stationary air contaminant source of these record keeping requirements. Except as may be otherwise provided by rule, semi-annual periods are January 1 to June 30, July 1 to December 31.~~
- (3) ~~The reports required by this rule shall be completed on forms approved by the Department of Environmental Quality and shall be submitted within 30 days after the end of each reporting period.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 44(Temp), f. & ef. 5-5-72; DEQ 48, f. 9-20-72, ef. 10-1-72; AQ 1-1993, f. & ef. 3-9-93~~

~~[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]~~ **Renumbered to 340-28-1140]**

"State of Oregon Clean Air Act Implementation Plan"

~~340-20-047 (1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by the Department of Environmental Quality and is adopted as the state implementation plan (SIP) of the State of Oregon~~

- pursuant to the ~~[[F]]~~ federal Clean Air Act, Public Law 88-206 as last amended by Public Law 101-549.
- (2) Except as provided in section (3) of this rule, revisions to the SIP shall be made pursuant to the Commission's rule-making procedures in Division 11 of this Chapter and any other requirements contained in the SIP and shall be submitted to the United States Environmental Protection Agency for approval.
- (3) Notwithstanding any other requirement contained in the SIP, the Department is authorized to submit to the Environmental Protection Agency any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after the Department has complied with the public hearings provisions of 40 CFR 51.102 (July 1, 1992).

[NOTE: Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the United States Environmental Protection Agency. If any provision of the federally approved Implementation Plan conflicts with any provision adopted by the Commission, the Department shall enforce the more stringent provision.]

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 35, f. 2-3-72, ef. 2-15-72; DEQ 54, f. 6-21-73, ef. 7-1-73; DEQ 19-1979, f. & ef. 6-25-79; DEQ 21-1979, f. & ef. 7-2-79; DEQ 22-1980, f. & ef. 9-26-80; DEQ 11-1981, f. & ef. 3-26-81; DEQ 14-1982, f. & ef. 7-21-82; DEQ 21-1982, f. & ef. 10-27-82; DEQ 1-1983, f. & ef. 1-21-83; DEQ 6-1983, f. & ef. 4-18-83; DEQ 18-1984, f. & ef. 10-16-84; DEQ 25-1984, f. & ef. 11-27-84; DEQ 3-1985, f. & ef. 2-1-85; DEQ 12-1985, f. & ef. 9-30-85; DEQ 5-1986, f. & ef. 2-21-86; DEQ 10-1986, f. & ef. 5-9-86; DEQ 20-1986, f. & ef. 11-7-86; DEQ 21-1986, f. & ef. 11-7-86; DEQ 4-1987, f. & ef. 3-2-87; DEQ 5-1987, f. & ef. 3-2-87; DEQ 8-1987, f. & ef. 4-23-87; DEQ 21-1987, f. & ef. 12-16-87; DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88; DEQ 2-1991, f. & cert. ef. 2-14-91; DEQ 19-1991, f. & cert. ef. 11-13-91; DEQ 20-1991, f. & cert. ef. 11-13-91; DEQ 21-1991, f. & cert. ef. 11-13-91; DEQ 22-1991, f. & cert. ef. 11-13-91; DEQ 23-1991, f. & cert. ef. 11-13-91; DEQ 24-1991, f. & cert. ef. 11-13-91; DEQ 25-1991, f. & cert. ef. 11-13-91; AQ 14-1992-1992, f. & ef. 1-30-92; DEQ 1-1992, f. & cert. ef. 2-4-92; DEQ 3-1992, f. & cert. ef. 2-4-92; DEQ 7-1992, f. & cert. ef. 3-30-92; AQ 20-1992, f. & cert. ef. 8-3-92; AQ 21-1992, f. 10-30-92, ef. 11-1-92; AQ 22-1992, f. & ef. 11-2-92; AQ 23-1992, f. & ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93

Air Contaminant Discharge Permits

Purpose

340-20-140 [The purpose of OAR 340-20-140 through 340-20-185 is to prescribe the requirements and procedures for obtaining Air Contaminant Discharge Permits pursuant to ORS 468A.040 through 468A.060 and related statutes for stationary sources.]

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-86; Renumbered from 340-20-033.02; AQ 1-1993, f. & ef. 3-9-93][Renumbered to 340-28-1700]

Definitions

340-20-145 [As used in OAR 340-20-140 through 340-20-185:]

- [(1) "Department" means Department of Environmental Quality.][Renumbered to OAR 340-28-110]
- [(2) "Commission" means Environmental Quality Commission.][Renumbered to OAR 340-28-110]
- [(3) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co-partnership, association, firm, trust, estate, or any other legal entity whatever.][Renumbered to OAR 340-28-110]
- [(4) "Permit" or "Air Contaminant Discharge Permit" means a written permit issued by the Department or Regional Authority in accordance with duly adopted procedures, which by its conditions

~~authorizes the permittee to construct, install, modify, or operate specified facilities, conduct specified activities, or emit, discharge, or dispose of air contaminants in accordance with specified practices, limitations, or prohibitions.~~

~~[(5) "Regional Authority" means Lane Regional Air Pollution Authority.]~~ **[Renumbered to OAR 340-28-110]**

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.04; AQ 1-1993, f. & ef. 3-9-93]~~

Notice Policy

340-20-150 {

- ~~(1) It shall be the policy of the Department and the Regional Authority to issue public notice as to the intent to issue an Air Contaminant Discharge Permit allowing at least thirty (30) days for written comment from the public, and from interested State and Federal agencies, prior to issuance of the permit. Public notice shall include the name and quantities of new or increased emissions for which permit limits are proposed, or new or increased emissions which exceed significant emission rates established by the Department.~~
- ~~(2) In addition to the information required under OAR 340-11-007, public notices for Air Contaminant Discharge Permits shall contain:
 - ~~(a) If a major source permit, whether the proposed permitted emission would have a significant impact on a Class 1 airshed;~~
 - ~~(b) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment or nonattainment for that pollutant; and~~
 - ~~(c) For each major source within an attainment area for which dispersion modeling has been performed an indication of what impact each proposed permitted emission would have on the Prevention of Significant Deterioration Program within that attainment area.~~~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 483, 468 & 468A~~

~~Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.06; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 34-1990, f. 8-20-90, cert. ef. 9-1-90; AQ 1-1993, f. & ef. 3-9-93]~~

[Renumbered to OAR 340-28-1710]

Permit Required

340-20-155 {

- ~~(1) No person shall construct, install, establish, develop or operate any air contaminant source which is referred to in Table 1, appended hereto and incorporated herein by reference, without first obtaining a permit from the Department or Regional Authority.~~
- ~~(2) No person shall modify any source covered by a permit under OAR 340-20-140 through 340-20-185 such that the emissions are significantly increased without first applying for and obtaining a modified permit.~~
- ~~(3) No person shall modify any source covered by a permit under OAR 340-20-140 through 340-20-185 such that:
 - ~~(a) The process equipment is substantially changed or added to; or~~
 - ~~(b) The emissions are significantly changed without first notifying the Department.~~~~
- ~~(4) Any source may apply to the Department or Regional Authority for a special letter permit if operating a facility with no, or insignificant, air contaminant discharges. The determination of applicability of this special permit shall be made solely by the Department or Regional Authority~~

having jurisdiction. If issued a special permit, the application processing fee and/or annual compliance determination fee, provided by OAR 340-20-165, may be waived by the Department or Regional Authority.

- (5) The Department may designate any source as a "Minimal Source" based upon the following criteria:
- Quantity and quality of emissions;
 - Type of operation;
 - Compliance with Department regulations; and
 - Minimal impact on the air quality of the surrounding region. If a source is designated as a minimal source, the annual compliance determination fee, provided by OAR 340-20-165, will be collected in conjunction with plant site compliance inspections which will occur no less frequently than every five (5) years.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.08; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; AQ 1-1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-1720]

Multiple-Source Permit

340-20-160 [When a single site includes more than one air contaminant source, a single permit may be issued including all sources located at the site. For uniformity such applications shall separately identify by subsection each air contaminant source included from **Table 1**.

- When a single air contaminant source which is included in a multiple source permit, is subject to permit modification, revocation, suspension, or denial, such action by the Department or Regional Authority shall only affect that individual source without thereby affecting any other source subject to the permit.
- When a multiple source permit includes air contaminant sources subject to the jurisdiction of the Department and the Regional Authority, the Department may require that it shall be the permit issuing agency. In such cases, the Department and the Regional Authority shall otherwise maintain and exercise all other aspects of their respective jurisdictions over the permittee.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-003.10; AQ 1-1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-1730]

Fees

340-20-165 {

- All persons required to obtain a permit shall be subject to a three part fee consisting of a uniform non refundable filing fee of \$75, an application processing fee, and an annual compliance determination fee which are determined by applying **Table 1**. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted as a required part of any application for a new permit. The amount equal to the filing fee and the application processing fee shall be submitted with any application for modification of a permit. The amount equal to the filing fee, application processing fee, and the annual compliance determination fee shall be submitted with any application for a renewed permit.
- The fee schedule contained in the listing of air contaminant sources in **Table 1** shall be applied to determine the permit fees, on a Standard Industrial Classification (SIC) plant site basis.
- Modifications of existing, unexpired permits which are instituted by the Department or Regional Authority due to changing conditions or standards, receipts or additional information, or any other

- reason pursuant to applicable statutes and do not require refiling or review of an application or plans and specifications shall not require submission of the filing fee or the application processing fee.
- (4) ~~Applications for multiple source permits received pursuant to OAR 340 20 160 shall be subject to a single \$75 filing fee. The application processing fee and annual compliance determination fee for multiple source permits shall be equal to the total amounts required by the individual sources involved, as listed in Table 1.~~
 - (5) ~~The annual compliance determination fee shall be paid at least 30 days prior to the start of each subsequent permit year. Failure to timely remit the annual compliance determination fee in accordance with the above shall be considered grounds for not issuing a permit or revoking an existing permit.~~
 - (6) ~~If a permit is issued for a period less than one (1) year, the applicable annual compliance determination fee shall be equal to the full annual fee. If a permit is issued for a period greater than 12 months, the applicable annual compliance determination fee shall be prorated by multiplying the annual compliance determination fee by the number of months covered by the permit and dividing by twelve (12).~~
 - (7) ~~In no case shall a permit be issued for more than ten (10) years.~~
 - (8) ~~Upon accepting an application for filing, the filing fee shall be non refundable.~~
 - (9) ~~When an air contaminant source which is in compliance with the rules of a permit issuing agency relocates or proposes to relocate its operation to a site in the jurisdiction of another permit issuing agency having comparable control requirements, application may be made and approval may be given for an exemption of the application processing fee. The permit application and the request for such fee reduction shall be accompanied by:
 - (a) ~~A copy of the permit issued for the previous location; and~~
 - (b) ~~Certification that the permittee proposes to operate with the same equipment, at the same production rate, and under similar conditions at the new or proposed location. Certification by the agency previously having jurisdiction that the source was operated in compliance with all rules and regulations will be acceptable should the previous permit not indicate such compliance.~~~~
 - (10) ~~If a temporary or conditional permit is issued in accordance with adopted procedures, fees submitted with the application for an air contaminant discharge permit shall be retained and be applicable to the regular permit when it is granted or denied.~~
 - (11) ~~All fees shall be made payable to the permit issuing agency.~~
 - (12) ~~Pursuant to ORS 468A.135, a regional authority may adopt fees in different amounts than set forth in Table 1 provided such fees are adopted by rule and after hearing and in accordance with ORS 468.065(2).~~
 - (13) ~~Sources which are temporarily not conducting permitted activities, for reasons other than regular maintenance or seasonal limitations, may apply for use of a modified annual compliance determination fee in lieu of an annual compliance determination fee determined by applying Table 1. A request for use of the modified annual compliance determination fee must be submitted to the Department in writing along with the modified annual compliance determination fees on or before the due date of the annual compliance determination fee on or before the due date of the annual compliance determination fee. The modified annual compliance determination fee shall be \$250.~~
 - (14) ~~Sources which have received Department approval for payment of a modified annual compliance determination fee must obtain authorization from the Department prior to resuming permitted activities. Sources shall submit written notification to the Department at least thirty (30) days before startup specifying the earliest anticipated startup date, and accompanied by:
 - (a) ~~Payment of the full annual compliance determination fee determined from Table 1 if greater than six (6) months would remain in the billing cycle for the source, or~~
 - (b) ~~Payment of 50% of the annual compliance determination fee determined from Table 1 if six (6) months or less would remain in the billing cycle.~~~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340 20 047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.12; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 11-1983, f. & ef. 5-31-83; DEQ 6-1986, f. & ef. 3-26-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 17-1990, f. & cert. ef. 5-25-90; AQ 1-1992, f. & ef. 12-2-91; AQ 1-1993, f. & ef. 3-9-93~~][Renumbered to OAR 340-28-1750]

Procedures For Obtaining Permits

~~340-20-170~~ [Submission and processing of applications for permits and issuance, denial, modification, and revocation, of permits shall be in accordance with duly adopted procedures of the permit issuing agency.]

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; Renumbered from 340-20-033.14; AQ 1-1993, f. & ef. 3-9-93~~][Renumbered to OAR 340-28-1760]

Other Requirements

~~340-20-175~~ {

- ~~(1) Any person intending to obtain an Air Contaminant Discharge Permit to construct, install, or establish a new or modified source of air contaminant emissions as required in OAR 340-20-155 shall submit a completed application on forms provided by the Department or at least the following information:
 - ~~(a) Name, address, and nature of business;~~
 - ~~(b) A description of the production processes and a related flow chart;~~
 - ~~(c) A plot plan showing location of all air contaminant sources and the nearest residential or commercial property;~~
 - ~~(d) Type and quantity of fuels used;~~
 - ~~(e) Amount, nature, and duration of emissions;~~
 - ~~(f) Estimated efficiency of air pollution control equipment.~~~~
- ~~(2) Any person complying with section (1) of this rule shall be exempted from complying with the notice of construction requirements of OAR 340-20-020 and 340-20-032.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.16; DEQ 20-1979, f. & ef. 6-29-79; AQ 1-1993, f. & ef. 3-9-93~~][Renumbered to OAR 340-28-1770]

Registration Exemption

~~340-20-180~~ [Air contaminant sources constructed and operated under a permit issued pursuant to these regulations shall be exempted from registration as required by ORS 468A.050 and OAR 340-20-005, 340-20-010, and 340-20-015.]

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033.18; DEQ 20-1979, f. & ef. 6-29-79; AQ 1-1993, f. & ef. 3-9-93~~][Renumbered to OAR 340-28-1780]

Permit Program For Regional Air Pollution Authority

~~340-20-185~~ [Subject to the provisions of this rule, the Commission authorizes the Regional

~~Authority to issue, modify, renew, suspend, and revoke air contaminant discharge permits for air contamination sources within its jurisdiction.~~

- ~~(1) Each permit proposed to be issued or modified by the Regional Authority shall be submitted to the Department at least thirty (30) days prior to the proposed issuance date.~~
- ~~(2) A copy of each permit issued, modified, or revoked by the Regional Authority shall be promptly submitted to the Department.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-20-033, 20; AQ 1-1993, f. & ef. 3-9-93]~~**[Renumbered to OAR 340-28-1790]**

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 340-20-220 through 340-20-276 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 through 340-20-032, Air Contaminant Discharge Permits, OAR 340-20-140 through 340-20-185, Emission Standards for Hazardous Air Contaminants, OAR 340-25-450 through 340-25-485, and Standards of Performance for New Stationary Sources, OAR 340-25-505 through 340-25-545.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93]~~**[Renumbered to OAR 340-28-1900]**

Definitions

~~340-20-225 {~~

~~As used in OAR 340-20-220 through 340-20-276:]~~

- ~~[(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. **[[Renumbered to OAR 340-28-110]]**
- {(3) "Baseline Period" means either calendar years 1977 or 1978. The Department shall allow the use of a prior time period upon a determination that it is more representative of normal source operation. **[[Renumbered to OAR 340-28-110]]**
- {(4) "Best Available Control Technology (BACT)" means an emission limitation, including, but not limited to, 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. **[[Renumbered to OAR 340-28-110]]**
- {(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. **[[Renumbered to OAR 340-28-110]]**
- {(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. **[[Renumbered to OAR 340-28-110]]**
- {(7) "Construction" means any physical change including, but not limited to, 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. **[[Renumbered to OAR 340-28-110]]**
- {(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. **[[Renumbered to OAR 340-28-110]]**
- {(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. **[[Renumbered to OAR 340-28-110]]**
- {(10) "Emissions Unit" means any part of a stationary source, including, but not limited to, specific process equipment which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act. **[[Renumbered to OAR 340-28-110]]**
- {(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. **[[Renumbered to OAR 340-28-110]]**
- {(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.][Renumbered to OAR 340-28-110]
- [(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.][Renumbered to OAR 340-28-110]
- [(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.][Renumbered to OAR 340-28-110]
- [(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 this rule, 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.][Renumbered to OAR 340-28-110]
- [(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 this rule.][Renumbered to OAR 340-28-110]
- [(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.][Renumbered to OAR 340-28-110]
- [(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.][Renumbered to OAR 340-28-110]
- [(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.][Renumbered to OAR 340-28-110]
- [(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. [[Renumbered to OAR 340-28-110]]

[(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>Pollutant</u>	<u>Significant 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 Medford-Ashland Air Quality Maintenance Area, and the Klamath Falls Urban Growth Area, the Significant Emission Rate for particulate matter 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**

Emission Rate

Air Contaminant	Annual		Day		Hour	
	Kilogram (tons)	Kilogram (lbs)	Kilogram (lbs)	Kilogram (lbs)	Kilogram (lbs)	Kilogram (lbs)
Partic. Matter (TSP or PM ₁₀)	1,500 (5.0)	23 (50.0)	4.6 (10.0)			

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.

--- Applies to the Medford-Ashland Air Quality Maintenance Area only.

**Table 3
(OAR 340-20-225)**

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

Pollutant Averaging Time

Pollutant	Annual	24 Hour	8 Hour	3 Hour	1 Hour
SO ₂	1.0 ug/m ³	5 ug/m ³		25 ug/m ³	
TSP 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	[Renumbered to OAR 340-28-110]

~~[(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.]~~ **[Renumbered to OAR 340-28-110]**

~~[(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.]~~ **[Renumbered to OAR 340-28-110]**

~~[(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)]~~ **[Renumbered to OAR 340-28-110]**

~~[(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.]~~ **[Renumbered to OAR 340-28-110]**

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25 1981, f. & ef. 9-8-81; DEQ 5 1983, f. & ef. 1-18-83; DEQ 18 1984, f. & ef. 10-16-84; DEQ 8 1988, f. & eff. 5-19-88 (and corrected 5-31-88); DEQ 14 1989, f. & corr. ef. 6-26-89; DEQ 27 1992, f. & corr. ef. 11-12-92; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-110]

Procedural Requirements

340-20-230 {

- (1) ~~Information Required.~~ The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or make any determination required under these rules. Such information shall include, but not be limited to:
 - (a) ~~A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;~~
 - (b) ~~An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, and yearly rates, showing the calculation procedure;~~
 - (c) ~~A detailed schedule for construction of the source or modification;~~
 - (d) ~~A detailed description of the system of continuous emission reduction which is planned for the source or modification, and any other information necessary to determine that best available control technology or lowest achievable emission rate technology, whichever is applicable, would be applied;~~
 - (e) ~~To the extent required by these rules, an analysis of the air quality and/or visibility impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and~~
 - (f) ~~To the extent required by these rules, an analysis of the air quality and/or visibility impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth which has occurred since January 1, 1978, in the area the source or modification would affect.~~
- (2) ~~Other Obligations:~~
 - (a) ~~Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to OAR 340-20-220 through 276 or with the terms of any approval to construct, or any owner or operator of a source or modification subject to OAR 340-20-220 who commences construction without applying for and receiving an Air Contaminant Discharge Permit, shall be subject to appropriate enforcement action;~~
 - (b) ~~Approval to construct shall become invalid if construction is not commenced within 18 months after receipt of such approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within 18 months of the scheduled time. The Department may extend the 18-month period upon satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date;~~
 - (c) ~~Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the State Implementation Plan and any other requirements under local, state or federal law.~~
- (3) ~~Public Participation:~~
 - (a) ~~Within 30 days after receipt of an application to construct, or any addition to such application, the Department shall advise the applicant of any deficiency in the application or in the information submitted. The date of the receipt of a complete application shall be, for the purpose of this section, the date on which the Department received all required information;~~
 - (b) ~~Notwithstanding the requirements of OAR 340-14-020, but as expeditiously as possible and at least within six months after receipt of a complete application, the Department shall make a final determination on the application. This involves performing the following actions in a timely manner:
 - (A) ~~Make a preliminary determination whether construction should be approved, approved~~~~

- with conditions, or disapproved;
- (B) ~~Make available for a 30 day period in at least one location a copy of the permit application, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;~~
 - (C) ~~Notify the public, by advertisement in a newspaper of general circulation in the area in which the proposed source or modification would be constructed, of the application, the preliminary determination, the extent of increment consumption that is expected from the source or modification, and the opportunity for a public hearing and for written public comment;~~
 - (D) ~~Send a copy of the notice of opportunity for public comment to the applicant and to officials and agencies having cognizance over the location where the proposed construction would occur as follows: The chief executives of the city and county where the source or modification would be located, any comprehensive regional land use planning agency, any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the source or modification, and the Environmental Protection Agency;~~
 - (E) ~~Upon determination that significant interest exists, or upon written requests for a hearing from ten (10) persons or from an organization or organizations representing at least ten persons, provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source or modification, alternatives to the source or modification, the control technology required, and other appropriate considerations. For energy facilities, the hearing may be consolidated with the hearing requirements for site certification contained in OAR Chapter 345, Division 15;~~
 - (F) ~~Consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. No later than 10 working days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Department shall consider the applicant's response in making a final decision. The Department shall make all comments available for public inspection in the same locations where the Department made available preconstruction information relating to the proposed source or modification;~~
 - (G) ~~Make a final determination whether construction should be approved, approved with conditions, or disapproved pursuant to this section;~~
 - (H) ~~Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the Department made available preconstruction information and public comments relating to the source or modification.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A-~~

~~Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 18-1984, f. & ef. 10-16-84; DEQ 13-1988, f. & cert. ef. 6-17-88; AQ 1-1993, f. & ef. 3-9-93]~~ **[Renumbered to OAR 340-28-1910]**

Review of New Sources and Modifications for Compliance With Regulations

~~340-20-235 [The owner or operator of a proposed major source or major modification must demonstrate the ability of the proposed source or modification to comply with all applicable requirements of the Department of Environmental Quality, including New Source Performance Standards, OAR 340-25-505 through 340-25-530, and National Emission Standards for Hazardous Air Pollutants, OAR 340-25-450 through 340-25-485, and shall obtain an Air Contaminant Discharge Permit pursuant to OAR 340-20-140 through 340-20-185.~~

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

Quality Commission under OAR 340-20-017.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-1920]

Requirements for Sources in Nonattainment Areas

~~340-20-240 [Proposed new major sources and major modifications which would emit a nonattainment pollutant within a designated nonattainment areas shall meet the requirements listed below:~~

- ~~(1) Lowest Achievable Emission Rate. The owner or operator of the proposed major source or major modification must demonstrate that the source or modification will comply with the lowest achievable emission rate (LAER) for each nonattainment pollutant which is emitted at or above the significant emission rate. 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) Offsets. The owner or operator of the proposed major source or major modification must provide offsets as specified in OAR 340-20-255 and 340-20-260.~~
- ~~(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 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 required by OAR 340-20-260(3)(c).~~
- ~~(5) Alternative Analysis:
 - ~~(a) The owner or operator of a proposed new major source or major modification shall conduct an alternative analysis for each nonattainment pollutant emitted at or above the significant emission rate, 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 which emit volatile organic compounds and oxides of nitrogen at or above the significant emission rate 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 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.][Renumbered to OAR 340-28-1930]

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

~~340-20-245 [New Major Sources or Major Modifications locating in areas designated attainment or unclassifiable shall meet the following requirements:~~

- ~~(1) Best Available Control Technology. The owner or operator of the proposed major source or major modification shall apply best available control technology (BACT) for each pollutant which is~~

emitted at a significant emission rate. In the case of a major modification, the requirement for BACT shall apply only to each new or modified emission unit which increases emissions. For phased construction projects, the determination of BACT shall be reviewed at the latest reasonable time prior to commencement of construction of each independent phase.

~~(2) Air Quality Analysis:~~

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

~~(A) Any state or national ambient air quality standard; or~~

~~(B) Any applicable increment established by the Prevention of Significant Deterioration requirements, OAR 340 31 110; or~~

~~(C) An impact on a designated nonattainment area greater than the significant air quality impact levels. New sources or modifications of sources which would emit volatile organic compounds which may impact the Salem ozone nonattainment area are exempt from this requirement.~~

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

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

~~(3) Exemption for Sources Not Significantly Impacting or Contributing to Levels in Excess of Air Quality Standards or PSD Increment Levels:~~

~~(a) A proposed major source or major modification is exempt from OAR 340 20 220 through 340 20 276 if paragraphs (A) and (B) of this subsection are satisfied:~~

~~(A) The proposed source or major modification does not cause or contribute a significant air quality impact to air quality levels in excess of any state or national ambient air quality standard; or to air quality levels in excess of any applicable increment established by the Prevention of Significant Deterioration requirements, OAR 340 31 110; or on a designated nonattainment area;~~

~~(B) The potential emissions of the source are less than 100 tons/year for sources in the following categories or less than 250 tons/year for sources not in the following source categories:~~

~~(i) Fossil fuel fired steam electric plants of more than 250 million BTU/hour heat input;~~

~~(ii) Coal cleaning plants with thermal dryers;~~

~~(iii) Kraft pulp mills;~~

~~(iv) Portland cement plants;~~

~~(v) Primary Zinc Smelters;~~

~~(vi) Iron and Steel Mill Plants;~~

~~(vii) Primary aluminum ore reduction plants;~~

~~(viii) Primary copper smelters;~~

~~(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per day;~~

~~(x) Hydrofluoric acid plants;~~

~~(xi) Sulfuric acid plants;~~

~~(xii) Nitric acid plants;~~

~~(xiii) Petroleum Refineries;~~

~~(xiv) Lime plants;~~

~~(xv) Phosphate rock processing plants;~~

~~(xvi) Coke oven batteries;~~

~~(xvii) Sulfur recovery plants;~~

~~(xviii) Carbon black plants, furnace process;~~

- ~~(xix) Primary lead smelters;~~
 - ~~(xx) Fuel conversion plants;~~
 - ~~(xxi) Sintering plants;~~
 - ~~(xxii) Secondary metal production plants;~~
 - ~~(xxiii) Chemical process plants;~~
 - ~~(xxiv) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;~~
 - ~~(xxv) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;~~
 - ~~(xxvi) Taconite ore processing plants;~~
 - ~~(xxvii) Glass fiber processing plants;~~
 - ~~(xxviii) Charcoal production plants.~~
- ~~(b) Major modifications are not exempted under this section unless the source including the modifications meets the requirements of paragraph (a)(A) and (B) of this section. Owners or operators of proposed sources which are exempted by this provision should refer to OAR 340-20-020 through 340-20-032, Notice of Construction and Approval of Plans, and OAR 340-20-140 through 340-20-185, Air Contaminant Discharge Permits, for possible applicable requirements;~~
- ~~(c) A proposed major source or modification is exempted from the requirements for PM₁₀ in OAR 340-22-220 through 340-20-276 if:~~
- ~~(i) The proposed source or modification received an Air Contaminant Discharge Permit prior to July 31, 1987, and meets all requirements of 40 CFR 52.21(i)(4)(ix); or~~
 - ~~(ii) The proposed source or modification submitted a complete application for an Air Contaminant Discharge Permit prior to July 31, 1987, and meets all requirements of 40 CFR 52.21(i)(4)(x).~~
- ~~(4) Air Quality Models. All estimates of ambient concentrations required under these rules shall be based on the applicable air quality models, data bases, and other requirement specified in the "Guidelines on Air Quality Models (Revised)" EPA 450/2-78-027R, U.S. Environmental Protection Agency, September 1986, including Supplement A, July, 1987. Where an air quality impact model specified in the "Guideline on Air Quality Models (Revised)" (including Supplement A) is inappropriate, the model may be modified or another model substituted. Such a change must be subject to notice and opportunity for public comment and must receive approval of the Department and the Environmental Protection Agency. Methods like those outlined in the "Interim Procedures for Evaluating Air Quality Models (Revised)" (U.S. Environmental Protection Agency, 1984) should be used to determine the comparability of models.~~
- ~~(5) Air Quality Monitoring:~~
- ~~(a) (A) The owner or operator of a proposed major source or major modification shall submit with the application, subject to approval of the Department, an analysis of ambient air quality in the area impacted by the proposed project. This analysis shall be conducted for each pollutant potentially emitted at a significant emission rate by the proposed source or modification. As necessary to establish ambient air quality, the analysis shall include continuous air quality monitoring data for any pollutant potentially emitted by the source or modification except for nonmethane hydrocarbons. Such data shall relate to, and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that such data gathered over a portion or portions of that year or another representative year would be adequate to determine that the source or modification would not cause or contribute to a violation of an ambient air quality standard or any applicable pollutant increment. Pursuant to the requirements of these rules, the owner or operator of the source shall submit for the approval of the Department, a preconstruction air quality monitoring plan.~~
 - ~~(B) Air quality monitoring which is conducted pursuant to this requirement shall be conducted in accordance with 40 CFR 58 Appendix B, "Quality Assurance~~

Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring¹¹ and with other methods on file with the Department.

- (C) ~~The Department may exempt a proposed major source or major modification from monitoring for a specific pollutant if the owner or operator demonstrates that the air quality impact from the emissions increase would be less than the amounts listed below or that the concentrations of the pollutant in the area that the source or modification would impact are less than these amounts:~~
- ~~(i) Carbon monoxide 575 ug/m³, 8 hour average;~~
 - ~~(ii) Nitrogen dioxide 14 ug/m³, annual average;~~
 - ~~(iii) Particulate Matter:
 - ~~(I) TSP 10 ug/m³, 24 hour average;~~
 - ~~(II) PM₁₀ 10 ug/m³, 24 hour average;~~~~
 - ~~(iv) Sulfur dioxide 13 ug/m³, 24 hour average;~~
 - ~~(v) Ozone Any net increase of 100 tons/year or more of volatile organic compounds from a source or modification subject to PSD is required to perform an ambient impact analysis, including the gathering of ambient air quality data;~~
 - ~~(vi) Lead 0.1 ug/m³, 24 hour average;~~
 - ~~(vii) Mercury 0.25 ug/m³, 24 hour average;~~
 - ~~(viii) Beryllium 0.0005 ug/m³, 24 hour average;~~
 - ~~(ix) Fluorides 0.25 ug/m³, 24 hour average;~~
 - ~~(x) Vinyl chloride 15 ug/m³, 24 hour average;~~
 - ~~(xi) Total reduced sulfur 10 ug/m³, 1 hour average;~~
 - ~~(xii) Hydrogen sulfide 0.04 ug/m³, 1 hour average;~~
 - ~~(xiii) Reduced sulfur compounds 10 ug/m³, 1 hour average.~~
- (D) ~~When monitoring is required by paragraphs (5)(a)(A) through (C) of this rule, PM₁₀ preconstruction monitoring shall be required according to the following transition program:~~
- ~~(i) Complete PSD applications submitted before May 31, 1988, shall not be required to perform new PM₁₀ monitoring;~~
 - ~~(ii) Complete PSD applications submitted after May 31, 1988, and before November 31, 1988 must use existing PM₁₀ or other representative air quality data or collect PM₁₀ monitoring data. The collected data may come from nonreference sampling methods. At least four months of data must be collected which the Department judges to include the season(s) of highest PM₁₀ levels;~~
 - ~~(iii) Complete PSD applications submitted after November 31, 1988, must use reference sampling methods. At least four months of data must be collected which the Department judges to include the season(s) of highest PM₁₀ levels.~~
- (b) ~~The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such ambient air quality monitoring as the Department may require as a permit condition to establish the effect which emissions of a pollutant, other than nonmethane hydrocarbons, may have, or is having, on air quality in any area which such emissions would affect.~~
- (6) ~~Additional Impact Analysis:~~
- ~~(a) The owner or operator of a proposed major source or major modification shall provide an analysis of the impairment to soils and vegetation that would occur as a result of the source or modification, and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator may be exempted from providing an analysis of the impact on vegetation having no significant commercial or recreational value;~~
 - ~~(b) The owner or operator shall provide an analysis of the air quality concentration projected for the area as a result of general commercial, residential, industrial and other growth associated with the major source or modification.~~
- (7) ~~Sources Impacting Class I Areas:~~
- ~~(a) Where a proposed major source or major modification impacts or may impact a Class I area,~~

the Department shall provide written notice to the Environmental Protection Agency and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application; at least 30 days prior to Department Public Hearings and subsequently, of any preliminary and final actions taken with regard to such application;

- (b) ~~The Federal Land Manager shall be provided an opportunity in accordance with OAR 340 20 230(3) to present a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality related values, including visibility, of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.~~
- (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 growth margin shall be allocated on a first come first served basis depending on the date of submittal of a complete permit applications. No single source shall receive an allocation of more than 50% 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 and is on file with the Department.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340 20 047.]~~

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

~~Stat. Auth.: ORS Ch. 468 & 468A-~~

~~Hist.: DEQ 25 1981, f. & ef. 9 8 81; DEQ 5 1983, f. & ef. 4 18 83; DEQ 18 1984, f. & ef. 10 16 84; DEQ 14 1985, f. & ef. 10 16 85; DEQ 8 1988, f. & cert. ef. 5 19 88 (and corrected 5 31 88); DEQ 27 1992, f. & cert. ef. 11 12 92; AQ 1 1993, f. & ef. 3 9 93]~~**[Renumbered to OAR 340-28-19[5]40]**

Exemptions

340-20-250

- ~~(1) Resource recovery facilities burning municipal refuse and sources subject to federally mandated fuel switches may be exempted by the Department from requirements OAR 340 20 240 sections (3) and (4) provided that:~~
- ~~(a) No growth increment is available for allocation to such source or modification; and~~
- ~~(b) The owner or operator of such source or modification demonstrates that every effort was made to obtain sufficient offsets and that every available offset was secured.~~

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

- ~~(2) Temporary emission sources, which would be in operation at a site for less than two years, such as pilot plants and portable facilities, and emissions resulting from the construction phase of a new source or modification must comply with OAR 340 20 240(1) and (2) or OAR 340 20 245(1), whichever is applicable, but are exempt from the remaining requirements of OAR 340 20 240 and OAR 340 20 245 provided that the source or modification would impact no Class I area or no area where an applicable increment is known to be violated.~~
- ~~(3) Proposed increases in hours of operation or production rates which would cause emission increases above the levels allowed in an Air Contaminant Discharge Permit and would not involve a physical change in the source may be exempted from the requirement of OAR 340 20 245(1) provided that the increases cause no exceedances of an increment or standard and that the net impact on a nonattainment area is less than the significant air quality impact levels. This exemption shall not be~~

- allowed for new sources or modifications that received permits to construct after January 1, 1978.
- (4) ~~Also refer to OAR 340-20-245(3) for exemptions pertaining to sources smaller than the Federal Size Cutoff Criteria.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A.~~

~~Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93~~ **Renumbered to OAR 340-28-19[6]50**

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 through 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 sources or major modifications 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 and must be demonstrated to remain in effect throughout the life of the proposed source or modification.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A.~~

~~Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93~~ **Renumbered to OAR 340-28-19[7]60**

Requirements for Net Air Quality Benefit

~~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 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.~~
- ~~(3) New major sources or major modifications must meet the following offset requirements:~~
- ~~(a) within a designated nonattainment area, the 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;~~
- ~~(b) outside a designated nonattainment area, new major sources or major modifications which have a significant air quality impact 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% new reduction); and
- ~~(d) within 30 kilometers of an ozone nonattainment area, new major sources or major modifications which emit volatile organic compounds or nitrogen oxides 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.~~
- ~~(4) The emission reductions must be of the same type of pollutant as the emissions from the new source or modification. Sources of PM₁₀ must be offset with particulate in the same size range. 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.~~
- ~~(5) The emission reductions must be contemporaneous, that is, the reductions must take effect prior to the time of startup but not more than 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.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~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); DEQ 27 1992, f. & cert. ef. 11-12-92; AQ 1 1993, f. & ef. 3-9-93]~~**Renumbered to OAR 340-28-19[9]70**

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 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 through 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.~~
- ~~(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(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 two 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(25);~~
 - (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.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; DEQ 5-1983, f. & ef. 4-18-83; DEQ 27-1992, f. & cert. ef. 11-12-92; AQ 1-1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-19[9]80]

Fugitive and Secondary Emissions

~~340-20-270 [Fugitive emissions shall be included in the calculation of emission rates of all air contaminants. Fugitive emissions are subject to the same control requirements and analyses required for emissions from identifiable stacks or vents. Secondary emissions shall not be included in calculations of potential emissions which are made to determine if a proposed source or modification is major. Once a source or modification is identified as being major, secondary emissions must be added to the primary emissions and become subject to these rules.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-[2000]1990]

Stack Heights

~~340-20-275 [DEQ 25-1981, f. & ef. 9-8-81; Repealed by DEQ 5-1983, f. & ef. 4-18-83]~~

Visibility Impact

~~340-20-276 [New major sources or major modifications located in Attainment, Unclassified or Nonattainment Areas shall meet the following visibility impact requirements.~~

- (1) ~~Visibility impact analysis:~~

- ~~(a) The owner or operator of a proposed major source or major modification shall demonstrate that the potential to emit any pollutant at a significant emission rate in conjunction with all other applicable emission increases or decreases, including secondary emissions, permitted since January 1, 1984, shall not cause or contribute to significant impairment of visibility within any Class I area;~~
- ~~(b) Proposed sources which are exempted under OAR 340-20-245(3) are not required to complete a visibility impact assessment to demonstrate that the sources do not cause or contribute to significant visibility impairment within a Class I area. The visibility impact assessment for sources exempted under this section shall be completed by the Department;~~
- ~~(c) The owner or operator of a proposed major source or major modification shall submit all information necessary to perform any analysis or demonstration required by these rules pursuant to OAR 340-20-230(1).~~
- ~~(2) Air quality models. All estimates of visibility impacts required under this rule shall be based on the models on file with the Department. Equivalent models may be substituted if approved by the Department. The Department will perform visibility modeling of all sources with potential emissions less than 100 tons/year of any individual pollutant and locating closer than 30 Km to a Class I area, if requested.~~
- ~~(3) Determination of significant impairment. The results of the modeling must be sent to the affected land managers and the Department. The land managers may, within 30 days following receipt of the source's visibility impact analysis, determine whether or not impairment of visibility in a Class I area would result. The Department will consider the comments of the Federal Land Manager in its consideration of whether significant impairment will result. Should the Department determine that impairment would result, a permit for the proposed source will not be issued.~~
- ~~(4) Visibility monitoring:
 - ~~(a) The owner or operator of a proposed major source or major modification which emit more than 250 tons per year of TSP, SO₂, or NO₂ shall submit with the application, subject to approval of the Department, an analysis of visibility in or immediately adjacent to the Class I area impacted by the proposed project. As necessary to establish visibility conditions within the Class I area, the analysis shall include a collection of continuous visibility monitoring data for all pollutants emitted by the source that could potentially impact Class I area visibility. Such data shall relate to and shall have been gathered over the year preceding receipt of the complete application, unless the owner or operator demonstrates that data gathered over a shorter portion of the year for another representative year would be adequate to determine that the source of major modification would not cause or contribute to significant impairment. Where applicable, the owner or operator may demonstrate that existing visibility monitoring data may be suitable. Pursuant to the requirements of these rules, the owner or operator of the source shall submit, for the approval of the Department, a preconstruction visibility monitoring plan;~~
 - ~~(b) The owner or operator of a proposed major source or major modification shall, after construction has been completed, conduct such visibility monitoring as the Department may require as a permit condition to establish the effect which emissions of pollutant may have, or is having, on visibility conditions with the Class I area being impacted.~~~~
- ~~(5) Additional impact analysis. The owner or operator of a proposed major source or major modification subject to OAR 340-20-245(6)(a) shall provide an analysis of the impact to visibility that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or major modification.~~
- ~~(6) Notification of permit application:
 - ~~(a) Where a proposed major source modification impacts or may impact visibility within a Class I area, the Department shall provide written notice to the Environmental Protection Agency and to the appropriate Federal Land Manager within 30 days of the receipt of such permit application. Such notification shall include a copy of all information relevant to the permit application, including analysis of anticipated impacts on Class I area visibility. Notification will also be sent at least 30 days prior to Department Public Hearings and subsequently of any~~~~

- preliminary and final actions taken with regard to such application;
- (b) ~~Where the Department receives advance notification of a permit application of a source that may affect Class I area visibility, the Department will notify all affected Federal Land Managers within 30 days of such advance notice;~~
 - (c) ~~The Department will, during its review of source impacts on Class I area visibility pursuant to this rule, consider any analysis performed by the Federal Land Manager that is provided within 30 days of notification required by subsection (a) of this section. If the Department disagrees with the Federal Land Manager's demonstration, the Department will include a discussion of the disagreement in the Notice of Public Hearing;~~
 - (d) ~~The Federal Land Manager shall be provided an opportunity in accordance with OAR 340-20-230(3) to present a demonstration that the emissions from the proposed source of modification would have an adverse impact on visibility of any Federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increment for a Class I area. If the Department concurs with such demonstration, the permit shall not be issued.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 18 1984, f. & ef. 10 16 84; DEQ 14 1985, f. & ef. 10 16 85; AQ 1 1993, f. & ef. 3 9 93][Renumbered to OAR 340-28-202100]~~

Plant Site Emission Limits

Policy

~~340-20-300 [The Commission recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of air quality permit holders as contained in OAR 340-20-301 through 340-20-320. However, by the adoption of these rules, the Commission does not intend to: limit the use of existing production capacity of any air quality permittee; cause any undue hardship or expense to any permittee due to the utilization of existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards which are based on emissions related to production. Plant Site Emission Limits (PSELs) can be established at levels higher than baseline provided a demonstrated need exists to emit at a higher level and PSD increments and air quality standards would not be violated and reasonable further progress in implementing control strategies would not be impeded.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 25 1981, f. & ef. 9 8 81; AQ 1 1993, f. & ef. 3 9 93][Renumbered to OAR 340-28-1000]~~

Requirement for Plant Site Emission Limits

~~340-20-301 [~~

- (1) ~~Plant Site Emission Limits (PSEL) shall be incorporated in all Air Contaminant Discharge Permits except minimal source permits and special letter permits as a means of managing airshed capacity. All sources subject to regular permit requirements shall be subject to PSELs for all federal and state regulated pollutants. PSELs will be incorporated in permits when permits are renewed, modified, or newly issued.~~
- (2) ~~The emissions limits established by PSELs shall provide the basis for:~~
 - (a) ~~Assuring reasonable further progress toward attaining compliance with ambient air standards;~~
 - (b) ~~Assuring that compliance with ambient air standards and Prevention of Significant~~

- Deterioration increments are being maintained;
- (c) ~~Administering offset, banking and bubble programs;~~
- (d) ~~Establishing the baseline for tracking consumption of Prevention of Significant Deterioration Increments.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93]~~**[Renumbered to OAR 340-28-1010]**

Definitions

340-20-305

~~[As used in OAR 340-20-300 through 340-20-320:]~~

~~[(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 a 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 emissions source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source.]~~**[Renumbered to OAR 340-28-110]**

~~[(2) "Baseline Emission Rate" means the average actual emission rate during the baseline period. Baseline emission rate shall not include increases due to voluntary fuel switches or increased hours of operation that have occurred after the baseline period.]~~**[Renumbered to OAR 340-28-110]**

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

~~[(4) "Normal Source Operation" means operations which do not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions.]~~**[Renumbered to OAR 340-28-110]**

~~[(5) "Plant Site Emission Limit (PSEL)" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a source.]~~**[Renumbered to OAR 340-28-110]**

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93]~~**[Renumbered to OAR 340-28-110]**

Criteria for Establishing Plant Site Emission Limits

340-20-310 {

- ~~(1) For existing sources, PSELs shall be based on the baseline emission rate for a particular pollutant at a source and shall be adjusted upward or downward pursuant to Department Rules:~~
 - ~~(a) If an applicant requests that the Plant Site Emission Limit be established at a rate higher than the baseline emission rate, the applicant shall:~~
 - ~~(A) Demonstrate that the requested increase is less than the significant emission rate increase defined in OAR 340-20-225(25); or~~
 - ~~(B) Provide an assessment of the air quality impact pursuant to procedures specified in OAR 340-20-240 to 340-20-245. A demonstration that no air quality standard or PSD~~

increment will be violated in an attainment area or that a growth increment or offset is available in a nonattainment area shall be sufficient to allow an increase in the PSEL to an amount not greater than the plant's demonstrated need to emit as long as no physical modification of an emissions unit is involved.

- ~~(b) Increases above baseline emission rates shall be subject to public notice and opportunity for public hearing pursuant to the Department's permit requirements.~~
- ~~(2) PSELs shall be established on at least an annual emission basis and a short-term period emission basis that is compatible with source operation and air quality standards.~~
- ~~(3) Mass emission limits may be established separately within a particular source for process emissions, combustion emissions, and fugitive emissions.~~
- ~~(4) Documentation of PSEL calculations shall be available to the permittee.~~
- ~~(5) For new sources, PSELs shall be based on application of applicable control equipment requirements and projected operating conditions.~~
- ~~(6) PSELs shall not be established which allow emissions in excess of those allowed by any applicable federal or state regulation or by any specific permit condition unless specific provisions of OAR 340-20-315 are met.~~
- ~~(7) PSELs may be changed pursuant to Department rules when:
 - ~~(a) Errors are found or better data is available for calculating PSELs;~~
 - ~~(b) More stringent control is required by a rule adopted by the Environmental Quality Commission;~~
 - ~~(c) An application is made for a permit modification pursuant to OAR 340-20-140 through 340-20-185, Air Contaminant Discharge Permits, and OAR 340-20-220 through 340-20-276, New Source Review, and approval can be granted based on growth increments, offsets, or available Prevention of Significant Deterioration increments;~~
 - ~~(d) The Department finds it necessary to initiate modifications of a permit pursuant to OAR 340-14-040, Modification of a Permit.~~~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25 1981, f. & ef. 9-8-81; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-1020]

Alternative Emission Controls (Bubble)

~~340-20-315 [Alternative emission controls may be approved for use within a plant site such that specific mass emission limit rules are exceeded provided that:~~

- ~~(1) Such alternatives are not specifically prohibited by a permit condition.~~
- ~~(2) Net emissions for each pollutant are not increased above the Plant Site Emission Limit.~~
- ~~(3) The net air quality impact is not increased as demonstrated by procedures required by OAR 340-20-260 (Requirements for Net Air Quality Benefit).~~
- ~~(4) No other pollutants including malodorous, toxic or hazardous pollutants are substituted.~~
- ~~(5) Best Available Control Technology (BACT) and Lowest Achievable Emission Rate (LAER) where required by a previously issued permit and New Source Performance Standards (NSPS), OAR 340-25-505 through 530, and National Emission Standards for Hazardous Air Pollutants (NESHAP), OAR 340-25-450 through 340-25-485, where required, are not relaxed.~~
- ~~(6) Specific mass emission limits are established for each emission unit involved such that compliance with the PSEL can be readily determined.~~
- ~~(7) Application is made for a permit modification and such modification is approved by the Department.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 25 1981, f. & ef. 9-8-81; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-1030]

Temporary PSD Increment Allocation

340-20-320 {

- ~~(1) PSEs may include a temporary or time limited allocation against an otherwise unused PSD increment in order to accommodate voluntary fuel switching or other cost or energy saving proposals provided it is demonstrated to the Department that:
 - ~~(a) No ambient air quality standard is exceeded;~~
 - ~~(b) No applicable PSD increment is exceeded;~~
 - ~~(c) No nuisance condition is created;~~
 - ~~(d) The applicant's proposed and approved objective continues to be realized.~~~~
- ~~(2) When such demonstration is being made for changes to the PSEL, it shall be presumed that ambient air quality monitoring shall not be required of the applicant for changes in hours of operation, changes in production levels, voluntary fuel switching or for cogeneration projects unless, in the opinion of the Department, extraordinary circumstances exist.~~
- ~~(3) Such temporary allocation of a PSD increment must be set forth in a specific permit condition issued pursuant to the Department's Notice and Permit Issuance or Modification Procedures.~~
- ~~(4) Such temporary allocations must be specifically time limited and may be recalled under specified notice conditions.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 25-1981, f. & ef. 9-8-81; AQ 1-1993, f. & ef. 3-9-93]~~**[Renumbered to OAR 340-28-1040]**

Excess Emissions

Purpose and Applicability

~~340-20-350 [Emissions of air contaminants in excess of applicable standards or permit conditions are considered unauthorized and subject to enforcement action, pursuant to OAR 340-20-360 through 340-20-380. OAR 340-20-350 through 340-20-380 apply to any source which emits air contaminants in violation of any applicable air quality rule or permit condition resulting from the breakdown of air pollution control equipment or operating equipment, process upset, start up, shut down, or scheduled maintenance. The purpose of these rules is to:~~

- ~~(1) Require that, where applicable, all excess emissions be reported by sources to the Department immediately;~~
- ~~(2) Require sources to submit information and data regarding conditions which resulted or could result in excess emissions; and~~
- ~~(3) Identify criteria to be used by the Department for determining whether enforcement action will be taken against an excess emission.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 37, f. 2-15-72, ef. 3-1-72; DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; Renumbered from 340-21-065; AQ 1-1993, f. & ef. 3-9-93]~~**[Renumbered to OAR 340-28-900]340-28-1400]**

Definitions

~~340-20-355 [As used in OAR 340-20-350 through 340-20-380:]~~

- ~~(1) "Event" means any period of excess emissions.]~~**[Renumbered to OAR 340-28-110]**
- ~~(2) "Excess emissions" means emissions which are in excess of an Air Contaminant Discharge Permit limit or any applicable air quality rule.]~~**[Renumbered to OAR 340-28-110]**

- ~~[(3) "Immediately" means as soon as possible but in no case more than one hour after the beginning of the excess emission period.][Renumbered to OAR 340-28-110]~~
- ~~[(4) "Large Source" means any stationary source whose actual emissions or potential controlled emissions while operating full time at the design capacity are equal to or exceed 100 tons per year of any regulated pollutant, or which is subject to a National Emissions Standard for Hazardous Air Pollutants. Where plant site emission limits (PSEL) have been incorporated into the Air Contaminant Discharge Permit, the PSEL shall be used to determine actual emissions.][Renumbered to OAR 340-28-110]~~
- ~~[(5) "Permittee" means the owner or operator of the facility, in whose name the operation of the source is authorized by the Air Contaminant Discharge Permit.][Renumbered to OAR 340-28-110]~~
- ~~[(6) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.][Renumbered to OAR 340-28-110]~~
- ~~[(7) "Small Source" means any stationary source with a regular Air Contaminant Discharge Permit (not a letter permit or a minimal source permit) which is not classified as a large source.][Renumbered to OAR 340-28-110]~~
- ~~[(8) "Startup" and "shutdown" means that time during which an air contaminant source or emission control equipment is brought into normal operation or normal operation is terminated, respectively.][Renumbered to OAR 340-28-110]~~
- ~~[(9) "Unavoidable" means events which are not caused entirely or in part by poor or inadequate design, operation, maintenance, or any other preventable condition in either process or control equipment.][Renumbered to OAR 340-28-110]~~
- ~~[(10) "Upset" or "Breakdown" mean any failure or malfunction of any pollution control equipment or operating equipment which may cause an excess emission.][Renumbered to OAR 340-28-110]~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 42 1990, f. 12-13-90, cert. ef. 1-2-91; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-110]

Planned Startup and Shutdown

340-20-360 {

- ~~(1) In cases where startup or shutdown of a production process or system may result in excess emissions, prior Department authorization shall be obtained of startup/ shutdown procedures that will be used to minimize excess emissions. Application for approval of procedures shall be submitted and received by the Department in writing at least seventy-two (72) hours prior to the event, and shall include the following:~~
- ~~(a) The reasons why the excess emissions during startup and shutdown could not be avoided;~~
 - ~~(b) Identification of the specific production process or system causing the excess emissions;~~
 - ~~(c) The nature of the air contaminants likely to be emitted, and an estimate of the amount and duration of the excess emissions;~~
 - ~~(d) Identification of specific procedures to be followed which will minimize excess emissions at all times.~~
- ~~(2) Approval of the startup/shutdown procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-20-375(3). Approval of the startup/shutdown procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions which occur are determined by the Department to be avoidable, pursuant to OAR 340-20-380.~~
- ~~(3) No startups or shutdowns resulting in excess emissions associated with the approved procedures in section (2) of this rule shall occur during any period in which an Air Pollution Alert, Air Pollution~~

- Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM₁₀ Nonattainment Areas.
- (4) ~~In cases where notification of a planned startup or shutdown is likely to cause excess emissions has not been provided to the Department 72 hours prior to the event, the permittee shall immediately notify the Department by telephone of the situation, and shall be subject to the requirements under Upsets and Breakdowns in OAR 340-20-370.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; AQ 1-1993, f. & ef. 3-9-93]~~ **[Renumbered to OAR 340-28-[910]1410]**

Scheduled Maintenance

340-20-365 {

- (1) ~~In cases where it is anticipated that shutdown, by pass, or operation at reduced efficiency of air pollution control equipment for necessary scheduled maintenance may result in excess emissions, prior Department authorization shall be obtained of procedures that will be used to minimize excess emissions. Application for approval of procedures associated with scheduled maintenance shall be submitted and received by the Department in writing at least seventy two (72) hours prior to the event, and shall include the following:~~
- (a) ~~The reasons explaining the need for maintenance, including why it would be impractical to shut down the source operation during the period, and why the by pass or reduced efficiency could not be avoided through better scheduling for maintenance or through better operation and maintenance practices;~~
 - (b) ~~Identification of the specific production or emission control equipment or system to be maintained;~~
 - (c) ~~The nature of the air contaminants likely to be emitted during the maintenance period, and the estimated amount and duration of the excess emissions, including measures such as the use of overtime labor and contract services and equipment, that will be taken to minimize the length of the maintenance period;~~
 - (d) ~~Identification of specific procedures to be followed which will minimize excess emissions at all times.~~
- (2) ~~Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-20-375(3). Approval of the above procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur which are determined by the Department to be avoidable, pursuant to OAR 340-20-380.~~
- (3) ~~No scheduled maintenance associated with the approved procedures in section (2) of this rule, which is likely to result in excess emissions, shall occur during any period in which an Air Pollution Alert, Air Pollution Warning, or Air Pollution Emergency has been declared, or during an announced yellow or red woodstove curtailment period in areas designated by the Department as PM₁₀ Nonattainment Areas.~~
- (4) ~~In cases where notification of necessary scheduled maintenance likely to cause excess emissions has not been provided to the Department 72 hours prior to the event, the permittee shall immediately notify the Department by telephone of the situation, and shall be subject to the requirements under Upset and Breakdowns in OAR 340-20-370.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

Upsets and Breakdowns

340-20-370 {

- ~~(1) For large sources, as defined by OAR 340-20-355(4), all excess emissions due to upset or breakdown must be reported to the Department immediately. Based on the severity of the event, the Department will either require submittal of a written report pursuant to OAR 340-20-375(1) and (2), or a recording of the event in the upset log as required in OAR 340-20-375(3).~~
- ~~(2) Small sources, as defined by OAR 340-20-355(7), need not report excess emissions due to upset or breakdown immediately unless required to do so by permit condition or written notice by the Department, or unless the excess emission is of a nature that could endanger public health. Based on the severity of the event, the Department will either require submittal of a written report pursuant to OAR 340-20-375(1) and (2), or a recording of the event in the upset log as required in OAR 340-20-375(3).~~
- ~~(3) During any period of excess emissions due to upset or breakdown, the Department may require that a source immediately proceed to reduce or cease operation of the equipment or facility until such time as the condition causing the excess emissions has been corrected or brought under control. Such action by the Department would be taken upon consideration of the following factors:
 - ~~(a) Potential risk to the public or environment;~~
 - ~~(b) Whether shutdown could result in physical damage to the equipment or facility, or cause injury to employees;~~
 - ~~(c) Whether any Air Pollution Alert, Warning, Emergency, or yellow or red woodstove curtailment period exists; or~~
 - ~~(d) If continued excess emissions were determined by the Department to be avoidable.~~~~
- ~~(4) In the event of any on-going period of excess emissions due to upset or breakdown, the source shall cease operation of the equipment or facility no later than 48 hours after the beginning of the excess emission period, if the condition causing the emissions is not corrected within that time. The source need not cease operation if it can obtain Department's approval of procedures that will be used to minimize excess emissions until such time as the condition causing the excess emissions is corrected or brought under control. Approval of these procedures shall be based on the following information supplied to the Department:
 - ~~(a) The reasons why the condition(s) causing the excess emissions cannot be corrected or brought under control. Such reasons shall include but not be limited to equipment availability and difficulty of repair or installation;~~
 - ~~(b) Information as required in OAR 340-20-360(1)(b), (c), and (d).~~~~
- ~~(5) Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-20-375(3). At any time during the period of excess emissions the Department may require the source to cease operation, in accordance with section (3) of this rule. In addition, approval of these procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur that are determined by the Department to be avoidable, pursuant to OAR 340-20-380.~~

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; AQ 1-1993, f. & ef. 3-9-93]]Renumbered to OAR 340-28-[930]1430]

Reporting Requirements

340-20-375 {

- ~~(1) For any period of excess emissions, the Department may require the source to submit a written excess emission report within fifteen (15) days of the date of the event, which includes the following:

 - ~~(a) The date and time each event was reported to the Department;~~
 - ~~(b) Information as described in OAR 340-20-380(1) through (5);~~
 - ~~(c) The final resolution of the cause of the excess emissions.~~~~
- ~~(2) Based on the severity of event, the Department may waive the 15-day reporting requirement, and specify either a shorter or longer time period for report submittal. The Department may also waive the submittal of the written report, if in the judgement of the Department, the period or magnitude of excess emissions was minor. In such cases the source shall record the event in the upset log pursuant to section (3) of this rule.~~
- ~~(3) Large and small sources shall keep an upset log of all planned and unplanned excess emissions. The upset log shall include all pertinent information as required in section (1) of this rule.~~
- ~~(4) At each annual reporting period specified in a permit, or sooner if required by the Department, the permittee shall submit a copy of the log entries for the reporting period. Upset logs shall be kept by the permittee for two (2) calendar years.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; AQ 1-1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-[940]1440]~~

Enforcement Action Criteria

~~340-20-380 [In determining if a period of excess emissions is avoidable, and whether enforcement action is warranted, the Department shall consider the following information submitted by the source:~~

- ~~(1) Whether notification occurred immediately pursuant to OAR 340-20-370(1) and (2).~~
- ~~(2) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction.~~
- ~~(3) Whether the Department was furnished with complete details of the event, i.e., the equipment involved, the duration or best estimate of the time until return to normal operation, the magnitude of emissions and the increase over normal rates or concentrations as determined by continuous monitoring or a best estimate (supported by operating data and calculations).~~
- ~~(4) Whether the amount and duration of the excess emission were limited to the maximum extent practicable during the period of excess emissions.~~
- ~~(5) Whether the appropriate remedial action was taken.~~
- ~~(6) Whether the event was due to negligent or intentional operation by the source. For the Department to find that an incident of excess emissions is not due to negligent or intentional operation by the source, the permittee must demonstrate, upon Department request, that all of the following conditions were met:

 - ~~(a) The process or handling equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;~~
 - ~~(b) Repairs or corrections were made in an expeditious manner when the operator(s) knew or should have known that emission limits were being or were likely to be exceeded. Expeditious manner may include such activities as use of overtime labor or contract labor and equipment that would reduce the amount and duration of excess emissions;~~
 - ~~(c) The event was not one in a recurring pattern of incidents which indicate inadequate design, operation, or maintenance.~~~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: DEQ 42-1990, f. 12-13-90, cert. ef. 1-2-91; AQ 1-1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-[950]1450]~~

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.~~

Stat. Auth.: ORS Ch. 468A

Hist: AQ 23 1992, f. & ef. 11 12 92][Renumbered to OAR 340-28-1500]

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.~~][Renumbered to OAR 340-28-110]
- {(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.~~][Renumbered to OAR 340-28-110]
- {(4) ~~"Nitrogen Oxides (NOx)" means all oxides of nitrogen except nitrous oxide.~~][Renumbered to OAR 340-28-110]
- {(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).~~][Renumbered to OAR 340-28-110]
- {(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.~~][Renumbered to OAR 340-28-110]
- {(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.]]Renumbered to OAR 340-28-110]

{Stat. Auth.: ORS Ch. 468A

Hist.: AQ 23 1992, f. & ef. 11-12-92; AQ 1 1993, f. & ef. 3-9-93]]Renumbered to OAR 340-28-110]

Requirements

340-20-470 {

- (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.

Stat. Auth.: ORS 468A

Hist.: AQ 23 1992, f. & ef. 11-12-92; AQ 1 1993, f. & ef. 3-9-93]]Renumbered to OAR 340-28-1510]

Submission of Emission Statement

340-20-480 [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.

Stat. Auth.: ORS 468A

Hist.: AQ 23 1992, f. & ef. 11 12 92; AQ 1 1993, f. & ef. 3 9 93][Renumbered to OAR 340-28-1520]

Major Source Interim Emission Fees

Purpose, Scope And Applicability

340-20-500 {

(1) ~~The purpose of OAR 340 20 500 through 340 20 660 is to provide permittees, major sources, and the Department of Environmental Quality with the criteria and procedures to determine interim emissions and fees based on calculated (1991 only), actual and permitted air emissions only for calendar years 1991 and 1992.~~

~~Note: These interim fees will be used to provide resources to cover the costs of the Department of Environmental Quality to develop an approvable federal operating permit program in accordance with the Federal Clean Air Act and ORS 468A.~~

(2) ~~OAR 340 20 500 through 340 20 660 apply to major sources as defined in OAR 340 20 520. The permittee may elect to pay interim emission fees on either calculated emissions (1991 only), actual emissions or permitted emissions for each assessable emission.~~

(3) ~~The interim emission fees are in addition to fees required by OAR 340 20 155 and 340 20 165.~~

~~Note: Assessment of fees for calendar years 1993 and beyond is subject to Environmental Protection Agency approval of the Title V program developed by the Department pursuant to Oregon Laws 1991 Chapter 752, ORS 468A, enacted by the 1991 Oregon Legislature in response to the federal Clean Air Act Amendments of 1990.~~

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14 1992, f. & ef. 1 23 92; AQ 1 1993, f. & ef. 3 9 93][Renumbered to OAR 340-28-2400]

Policy

~~340-20-510 [Considering that OAR 340 20 500 through 340 20 660 are retroactive and that methods were not in place for determining actual emissions for fee purposes, the Environmental Quality Commission recognizes that special criteria are necessary to quantify emissions for 1991. More specific methods for data collection are consistent with the new requirements under the Clean Air Act Amendments of 1990 and appropriate for calendar year 1992 emissions.~~

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14 1992, f. & ef. 1 23 92; AQ 1 1993, f. & ef. 3 9 93][Renumbered to OAR 340-28-2410]

Definitions

~~340-20-520 [As used in OAR 340 20 500 through 340 20 660, unless otherwise required by context:]~~

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

(2) ~~"Assessable Emission" means a unit of emissions for which the major source will be assessed a fee. It includes an emission of a pollutant as defined in OAR 340 20 530 from one emission point and from an area within a major source. For routine process emissions, emissions of each pollutant in OAR 340 20 530 from each emission point included in an air contaminant discharge permit shall be an assessable emission.][Renumbered to OAR 340-28-110]~~

(3) ~~"Constant Process Rate" means the average variation in process rate for the calendar year is not greater than plus or minus ten percent of the average process rate.][Renumbered to OAR 340-28-~~

1101

- ~~[(4) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect calculated emissions and actual emissions or concentrations on a continuing basis in accordance with the Department's Continuous Monitoring Manual, and includes continuous emission monitoring systems and continuous parameter monitoring systems.][Renumbered to OAR 340-28-110]~~
- ~~[(5) "Calculated Emissions" means procedures used to estimate emissions for the 1991 calendar year.]~~
- ~~[(6) "Department" means Department of Environmental Quality.]~~
- ~~[(7) "Emission" means a release into the atmosphere of any regulated pollutant.][Renumbered to OAR 340-28-110]~~
- ~~[(8) "Emission Estimate Adjustment Factor (EEAF)" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.][Renumbered to OAR 340-28-110]~~
- ~~[(9) "Emission Factor" means an average value which relates the quantity of a pollutant released to the atmosphere with the activity associated with the release of that pollutant.]~~
- ~~[(10) "Emission Reporting Form" means a paper or electronic form developed by the Department that shall be completed by the permittee to report calculated emissions, actual emissions or permitted emissions for interim emission fee assessment purposes.][Renumbered to OAR 340-28-110]~~
- ~~[(11) "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.]~~
- ~~[(12) "Interim Emission Fee" means \$13 per ton for each assessable emission subject to emission fees under OAR 340-20-530 for calculated, actual or permitted emissions released during calendar years 1991 and 1992.][Renumbered to OAR 340-28-110]~~
- ~~[(13) "Late Payment" means an interim emission fee which is postmarked after the due date.][Renumbered to OAR 340-28-110]~~
- ~~[(14) "Major Source" or "Source" means a permitted stationary source or group of stationary sources located within a contiguous area and under common control or any stationary facility or source of air pollutants which directly emits, or is permitted to emit:~~
- ~~(a) One hundred tons per year or more of any regulated pollutant, or~~
- ~~(b) Fifty tons per year or more of a volatile organic compound and is located in a serious ozone nonattainment area.][Renumbered to OAR 340-28-110]~~
- ~~[(15) "Material Balance" means a procedure for determining emissions based on the difference in the amount of material added to a process and the amount consumed and/or recovered from a process.][Renumbered to OAR 340-28-110]~~
- ~~[(16) "Particulate Matter" means all solid or liquid material, other than uncombined water, emitted to the ambient air as measured by a Department approved method in accordance with the Department's Source Sampling Manual.][Renumbered to OAR 340-28-110]~~
- ~~[(17) "Permit" or "Air Contaminant Discharge Permit" means a written permit issued by the Department, pursuant to OAR 340-20-140 through 340-20-175 and includes the application review report.][Renumbered to OAR 340-28-110]~~
- ~~[(18) "Permitted Emissions" means each assessable emission portion of the Plant Site Emission Limit.][Renumbered to OAR 340-28-110]~~
- ~~[(19) "Person" means the United States Government and agencies thereof, any state, individual, public or private corporation, political subdivision, governmental agency, municipality, industry, co partnership, association, firm, trust, estate, or any other legal entity.]~~
- ~~[(20) "Plant Site Emission Limit (PSEL)" means the total mass emissions per unit time of an individual air pollutant specified in a permit for a major source. The PSEL may consist of more than one assessable emission.]~~
- ~~[(21) "PM₁₀ Emissions" means emissions of finely divided solid or liquid material, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 10 micrometers, emitted to the ambient air as measured by applicable reference methods in accordance with the Department's Source Sampling Manual.][Renumbered to OAR 340-28-110]~~

- ~~[(22) "Regulated Pollutant" means PM₁₀, Sulfur Dioxide (SO₂), Oxides of Nitrogen (NO_x), Lead (Pb), Volatile Organic Compounds (VOC), and Carbon Monoxide (CO); and any other pollutant subject to a New Source Performance Standard (NSPS) such as Total Reduced Sulfur (TRS) from kraft pulp mills and Fluoride (F) from aluminum mills.][Renumbered to OAR 340-28-110]~~
- ~~[(23) "Source Category" means a group of major sources determined by the Department to be using similar raw materials and having equivalent process controls and pollution control equipment.][Renumbered to OAR 340-28-110]~~
- ~~[(24) "Source Test" means the average of at least three test runs during operating conditions representative of the period for which emissions are to be determined, conducted in accordance with the Department's Source Sampling Manual or other Department approved methods.][Renumbered to OAR 340-28-110]~~
- ~~[(25) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.][Renumbered to OAR 340-28-110]~~
- ~~[(26) "Total Reduced Sulfur (TRS)" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide (H₂S).][Renumbered to OAR 340-28-110]~~
- ~~[(27) "Verified Emission Factor" means an emission factor approved by the Department and developed for a specific major source or source category and approved for application to that major source by the Department.][Renumbered to OAR 340-28-110]~~
- ~~[(28) "Volatile Organic Compound or "VOC" means any organic compound 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), trichlorofluoromethane (CFC 11), dichlorofluoromethane (CFC 12), chlorodifluoromethane (CFC 22), trifluoromethane (FC 23), trichlorotetrafluoroethane (CFC-114), and chloropentafluoroethane (CFC 115).]~~

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1-1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-110]

Pollutants Subject to Interim Emission Fees

340-20-530 {

- ~~(1) The Department shall assess interim emission fees on assessable emissions up to and including 4,000 tons per year of each of the following pollutants from each major source:~~
- ~~(a) PM₁₀ or TSP as specified in section (2) of this rule,~~
 - ~~(b) SO₂,~~
 - ~~(c) NO_x,~~
 - ~~(d) VOC,~~
 - ~~(e) Lead,~~
 - ~~(f) Fluoride,~~
 - ~~(g) TRS, and~~
 - ~~(h) Any other pollutant subject to New Source Performance Standards.~~
- ~~(2) If the interim emission fee on PM₁₀ emissions is based on the Plant Site Emission Limit for a source that does not have a Plant Site Emission Limit for PM₁₀, the Department shall assess the interim emission fee on the Plant Site Emission Limit for total suspended particulates.~~
- ~~(3) The permittee shall determine each actual assessable emission separately.~~
- ~~(4) The permittee shall pay interim emission fees on all assessable emissions from each emission source~~

~~included in the permit or application review report.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: AQ 14 1992, f. & ef. 1-23-92]]Renumbered to OAR 340-28-2420~~

Exclusions

340-20-540 {

- ~~(1) The Department shall not assess interim emission fees on:
 - ~~(a) Pollutants regulated solely as hazardous air pollutants as defined in Section 112 of the federal Clean Air Act, and~~
 - ~~(b) Newly permitted major sources that have not begun initial operation.~~
 - ~~(c) A former permittee who has permanently ceased operation, as indicated by cancellation of the air contaminant discharge permit prior to the time of interim emission fee assessment by the Department.~~~~
- ~~(2) The Department shall not assess interim emission fees on carbon monoxide. However, sources that emit or are permitted to emit 100 tons or more per year of carbon monoxide are subject to the interim emission fees on all other regulated pollutants regardless of the amount of emissions of those regulated pollutants.~~
- ~~(3) The Department shall not assess interim emission fees if there are no emissions from an assessable emission for the entire calendar year.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93]]Renumbered to OAR 340-28-2430~~

References {

~~340-20-550 Reference documents used in OAR 340-20-500 through 340-20-660 include the Department of Environmental Quality Source Sampling Manual and the Department of Environmental Quality Continuous Monitoring Manual.~~

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

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93]]Renumbered to OAR 340-28-2440~~

Election For Each Assessable Emission For 1991 And 1992

340-20-560 {

- ~~(1) The permittee shall make an election to pay interim emission fees on either calculated emissions (1991 only), actual emissions or permitted emissions for each year for each assessable emission and notify the Department in accordance with OAR 340-20-580.~~
- ~~(2) For calendar year 1991 the permittee shall elect to pay interim emission fees on either:
 - ~~(a) Calculated emissions, OAR 340-20-590.~~
 - ~~(b) Permitted emissions, OAR 340-20-570 and 340-20-580, or~~
 - ~~(c) Actual emissions, OAR 340-20-570, 340-20-580 and 340-20-600.~~~~
- ~~(3) For calendar year 1992 the permittee shall elect to pay interim emission fees on either:
 - ~~(a) Actual emissions, OAR 340-20-570, 340-20-580, and 340-20-600, or~~
 - ~~(b) Permitted emissions, OAR 340-20-570 and 340-20-580.~~~~
- ~~(4) If a permittee fails to notify the Department of the election for an assessable emission, the Department shall assess interim emission fees for the assessable emission based on permitted emissions.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93]]Renumbered to OAR 340-28-2450~~

Emission Reporting

340-20-570 {

- ~~(1) For the purpose of assessing interim emission fees the permittee shall submit the following information on an Emission Reporting Form(s) developed by the Department for each assessable emission in tons per year, reported as follows:
 - ~~(a) PM₁₀ as PM₁₀;~~
 - ~~(b) Sulfur Dioxide as SO₂;~~
 - ~~(c) Oxides of Nitrogen (NO_x) as Nitrogen Dioxide (NO₂);~~
 - ~~(d) Total Reduced Sulfur (TRS) as H₂S in accordance with OAR 340-25-150(15);~~
 - ~~(e) Volatile Organic Compounds (VOC) as:
 - ~~(A) VOC for material balance emission reporting, or~~
 - ~~(B) Propane (C₃H₈), unless otherwise specified by permit, or OAR Chapter 340, or a method approved by the Department, for emissions verified by source testing.~~~~
 - ~~(f) Fluoride as F;~~
 - ~~(g) Lead as Pb.~~~~
- ~~(2) The permittee electing to pay interim emission fees on actual and calculated emissions shall report emissions as follows:
 - ~~(a) Round up to the nearest whole ton for emission values 0.5 and greater, and~~
 - ~~(b) Round down to the nearest whole ton for emission values less than 0.5.~~~~
- ~~(3) The permittee electing to pay interim emission fees on either actual or calculated emissions shall:
 - ~~(a) Submit complete information on the Emission Reporting Forms including all assessable emissions, emission points and sources, and~~
 - ~~(b) Submit documentation necessary to support emission calculations.~~~~
- ~~(4) The permittee electing to pay on calculated (1991 only) or actual emissions for an assessable emission shall report total emissions including those emissions in excess of 4,000 tons for each assessable emission.~~
- ~~(5) The permittee electing to pay on permitted emissions for an assessable emission shall submit a statement to the Department that they shall pay on the Plant Site Emission Limit in effect for the calendar year in which they are paying, in accordance with OAR 340-20-570 and 340-20-580.~~
- ~~(6) If more than one permit is in effect for a calendar year for a major source, the permittee electing to pay on permitted emissions shall pay on the Plant Site Emission Limit(s) in effect for each day of that calendar year.~~

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-2460]

Emission Reporting And Interim Fee Procedures

340-20-580 {

- ~~(1) The permittee shall submit the original Emission Reporting Form(s), including the permittees election for each assessable emission, to the Department by the later of either February 28 or the due date for the annual permit report for the previous calendar year.~~
- ~~(2) The permittee may request that information, other than emission information, submitted pursuant to OAR 340-20-500 through 340-20-660 be treated as confidential by the Department in accordance with ORS 192.410 through 192.505.~~
- ~~(3) The permittee shall allow the Department representatives access to the plant site and pertinent records at all reasonable times for the purposes of making inspections, surveys, collecting samples, obtaining data, reviewing and copying air contaminant emission discharge records and otherwise conducting all necessary functions related to the interim emission fees. The permittee shall maintain all records on site for two years from the date specified in Section (6) of this rule.~~
- ~~(4) The Department may accept information submitted or request additional information from the permittee. The permittee shall submit additional calculated or actual emission information requested by the Department within thirty (30) days of receiving a request from the Department. The Department may approve a request from a permittee for an extension of time of up to thirty days~~

- to submit additional information under extenuating circumstances.—
- (5) ~~If the Department determines the actual or calculated emission information submitted for any assessable emission does not meet the criteria in OAR 340-20-500 through 340-20-660, the Department shall assess the interim emission fee on the permitted emission for that assessable emission.~~
 - (6) ~~The permittee shall submit interim emission fees payable to the Department by the later of:

 - (a) ~~July 1 for interim emission fees from the previous calendar year, or~~
 - (b) ~~Thirty (30) days after the Department mails the interim emission fee invoice.~~~~
 - (7) ~~Department acceptance of interim emission fees shall not indicate approval of data collection methods, calculation methods, or information reported on Emission Reporting Forms. If the Department determines initial interim emission fee assessments were inaccurate or inconsistent with OAR 340-20-500 through 340-20-660, the Department may assess or refund interim emission fees up to two years after interim emission fees are received by the Department.~~
 - (8) ~~The Department shall not revise a Plant Site Emission Limit solely due to an interim emission fee payment.~~
 - (9) ~~Permittees operating major sources pursuant to OAR 340-22-100 through OAR 340-22-220 may submit the emission reporting information in the annual permit report format provided that:

 - (a) ~~The permittee receives Department approval prior to the annual permit report due date and prior to February 28 of the year the fee is due,~~
 - (b) ~~The report is received by the Department by the due date specified in the permit, and~~
 - (c) ~~All information required by OAR 340-20-500 through 340-20-660 is provided, including an indication of whether the permittee is electing to pay on permitted, calculated, or actual emissions for each assessable emission.~~~~

Stat. Auth.: ~~ORS Ch. 468 & 468A~~

Hist.: ~~AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93~~ **Renumbered to OAR 340-28-2470**

Calculated Emissions For 1991

~~340-20-590 [To calculate actual emissions for 1991, the permittee shall use one of the following methods: (1) OAR 340-20-650(9), and:~~

- (a) ~~The emission factor(s) and other criteria used by the Department and documented in the permit or application review report to establish Plant Site Emission Limits to calculate assessable emission(s); or~~
- (b) ~~Emission Factors developed from at least one Department approved source test conducted since 1985.~~
- (2) ~~Material balance data.~~
- (3) ~~Emission data from a continuous monitoring system if:

 - (a) ~~The system was installed and maintained and is capable of continuously monitoring pollutant emissions;~~
 - (b) ~~Emissions data were recorded at a minimum of once per hour, and~~
 - (c) ~~Data completeness was at least ninety percent (90%) of the scheduled operating time based on hourly data, otherwise OAR 340-20-610(2) shall be used to determine emissions.~~~~
- (4) ~~Alternative emission factors approved by the Department as more representative of actual source configuration and operation in 1991, provided that the alternative factors are at least as accurate as methods used for compliance demonstration.~~

Stat. Auth.: ~~ORS Ch. 468 & 468A~~

Hist.: ~~AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93~~ **Renumbered to OAR 340-28-2480**

Actual Emissions For 1992

~~340-20-600 [A permittee electing to pay on actual emissions for calendar year 1992 emissions shall obtain emission data and determine emissions using one of the following methods:~~

- (1) ~~Continuous monitoring systems used in accordance with OAR 340-20-610,~~

- (2) ~~Verified emission factors developed for that particular source in accordance with OAR 340-20-650 for:~~
 - (a) ~~Each assessable emission, or~~
 - (b) ~~A combination of assessable emissions if there are multiple sources venting to the atmosphere through one common emission point (eg. stack). The permittee shall have a verified emission factor plan approved by the Department prior to conducting the source testing in accordance with OAR 340-20-650.~~
- (3) ~~Material balances determined in accordance with OAR 340-20-620, OAR 340-20-630, or OAR 340-20-640, or~~
- (4) ~~Verified emission factors for source categories developed in accordance with OAR 340-20-650(11).~~

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-2490]

Determining Emissions From Continuous Monitoring Systems For 1992 340-20-610 {

- (1) ~~If the permittee elects to report emission data using monitoring systems, the permittee shall use a monitor installed and operated in accordance with the Department's Continuous Monitoring Manual for data collected from April 1, 1992 through December 31, 1992. For data collected from January 1, 1992 through March 31, 1992, the permittee shall use data collected in accordance with permit conditions, applicable rules in OAR Chapter 340, or the Department's Continuous Monitoring Manual.~~
- (2) ~~If the permittee has continuous monitoring data that comprises less than ninety percent (90%) of the plant operating time, the actual emissions during the period when the continuous monitoring system was not operating shall be determined from 90 percentile continuous monitoring data.~~

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-2500]

Determining Emissions Using Material Balance For 1992

340-20-620 [The permittee may elect to use material balance to determine actual emissions:

- (1) ~~If the amount of material added to a process less the amount consumed and/or recovered from a process can be documented in accordance with Department approved permit procedures and in accordance with OAR 340-20-500 through 340-20-660.~~
- (2) ~~The permittee shall only apply material balance calculations to VOC or sulfur dioxide emissions in accordance with OAR 340-20-630 and OAR 340-20-640 respectively.~~

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-2510]

Determining Volatile Organic Compound Emissions Using Material Balance For 1992

340-20-630 [The permittee may determine the amount of VOC emissions for an assessable emission by using material balance.

- (1) ~~The permittee using material balance to calculate VOC emissions shall determine the amount of VOC added to the process, the amount of VOC consumed in the process and/or the amount of VOC recovered in the process by testing in accordance with 40 Code of Federal Regulations (CFR) Part 60 EPA Method 18, 24, 25, a material balance method, or an equivalent plant specific method specified in the Air Contaminant Discharge Permit using the following equation:~~

$$\text{VOC}_{\text{tot}} = \text{VOC}_{\text{add}} - \text{VOC}_{\text{cons}}$$

Where:

$$\text{VOC}_{\text{tot}} = \text{Total VOC emissions, tons}$$

$$\text{VOC}_{\text{add}} = \text{VOC added to the process, tons}$$

$$\text{VOC}_{\text{cons}} = \text{VOC consumed and/or recovered from the process, tons}$$

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-2520]

Determining Sulfur Dioxide Emissions Using Material Balance For 1992

340-20-640 {

- (1) Sulfur dioxide emissions for major sources may be determined by measuring the sulfur content of fuels and assuming that all of the sulfur in the fuel is oxidized to sulfur dioxide.
- (2) The permittee shall use ASTM methods to measure the sulfur content in fuel for each quantity of fuel burned.
- (3) The permittee shall determine sulfur dioxide emissions for each quantity of fuel burned, determining quantity by a method that is reliable for that source, by performing the following calculation:

$$\text{SO}_2 = \%S/100 \times F \times 2$$

Where:

$$\text{SO}_2 = \text{Sulfur dioxide emissions for each quantity of fuel, tons}$$

$$\%S = \text{Percent sulfur in the fuel being burned, \% (w/w)}$$

$$F = \text{Amount of fuel burned, based on a quantity measurement, tons}$$

$$2 = \text{Pounds of sulfur dioxide per pound of sulfur}$$

- (4) For coal-fired steam generating units the following equation shall be used by permittees to account for sulfur retention:

$$\text{SO}_{2\text{adj}} = \text{SO}_2 \times 0.97$$

Where:

$$\text{SO}_{2\text{adj}} = \text{Sulfur dioxide adjusted for sulfur retention (40 CFR Part 60, Appendix A, Method 19, Section 5.2)}$$

$$\text{SO}_2 = \text{Sulfur dioxide emissions from each quantity burned (OAR 340-20-640(3))}$$

- (5) Total sulfur dioxide emissions for the year shall be the sum total of each quantity burned calculated in accordance with OAR 340-20-640(3) divided by 2000 pounds per ton.
- (6) The permittee shall keep records of the fuel received and consumed and the quantity and sulfur

content for two years from the date specified in OAR 340-20-580(6).

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

Stat. Auth.: ORS Ch. 468 & 468A

Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93][Renumbered to OAR 340-28-2530]

Verified Emission Factors Using Source Testing

340-20-650 {

- ~~(1) To verify emission factors used to determine assessable emissions the permittee shall:
 - ~~(a) Utilize source testing data collected in accordance with appropriate procedures or Department guidance in effect at the time the data was collected, for source test data collected from 1985 through 1991, or~~
 - ~~(b) Perform source testing in accordance with the Department's Source Sampling Manual or other methods approved by the Department for source tests conducted in 1992. Source tests shall be conducted in accordance with testing procedures on file at the Department and the pretest plan submitted at least fifteen (15) days in advance and approved by the Department. All test data and results shall be submitted for review to the Department within thirty (30) days after testing.~~

~~NOTE: It is recommended that the permittee notify the Department and obtain pre-approval of the Emission Factor source testing program prior to or as part of the submittal of the first source test notification.~~~~
- ~~(2) The permittee shall conduct or have conducted at least three compliance source tests each consisting of at least three individual test runs for a total of at least nine test runs.~~
- ~~(3) The permittee shall monitor and record or have monitored and recorded applicable process and control device operating data.~~
- ~~(4) The permittee shall perform or have performed a source test either:
 - ~~(a) In each of three quarters of the year with no two successive source tests performed any closer than thirty (30) days apart, or~~
 - ~~(b) At equal intervals over the operating period if the permittee demonstrates and the Department approves that:
 - ~~(A) The process operates or has operated for part of the year, or~~
 - ~~(B) The process is or was not subject to seasonal variations.~~~~~~
- ~~(5) The permittee shall conduct or have conducted the source tests to test the entire range of operating levels. At least one test shall be conducted at minimum operating conditions, one test at normal or average operating levels, and one test at anticipated maximum operating levels. If the process rate is constant, all tests shall be conducted at that rate. The permittee shall submit documentation to the Department demonstrating a constant process rate.~~
- ~~(6) The permittee shall determine or have determined an emission factor for each source test by dividing each test run emissions, in pounds per hour, by the applicable process rate during the source test run. At least nine emission factors shall be plotted against the respective process rates and a regression analysis performed to determine the best fit equation and the correlation coefficient (R^2). If the correlation coefficient is less than 0.50, which would indicate that there is a relatively weak relationship between emissions and process rates, the arithmetic average and standard deviation of at least nine emission factors shall be determined.~~
- ~~(7) The permittee shall determine the Emissions Estimate Adjustment Factor (EEAF) as follows:
 - ~~(a) If the correlation coefficient (R^2) of the regression analysis is greater than 0.50, the EEAF shall be $1 + (1 - R^2)$.~~
 - ~~(b) If the correlation coefficient (R^2) is less than 0.50, the EEAF shall be:~~~~

$$EEAF = 1 + SD/EF_{avg}$$

Where:

SD = Standard Deviation

EF_{avg} = Average of the Emission Factors

(8) The permittee shall determine actual emissions for interim emission fee purposes using one of the following methods:

(a) If the regression analysis correlation coefficient is less than 0.50, the actual emissions shall be the average emission factor determined from at least nine test runs multiplied by the EEAF multiplied by the total production for the entire year, or

$$AE = EF_{avg} \times EEAF \times P$$

Where:

AE = Actual Emissions

EF_{avg} = Average of the Emission Factors

EEAF = Estimated Emissions Adjustment Factor

P = Total production for the year

(b) If the regression analysis correlation coefficient is greater than 0.50 the following calculations shall be performed:

(A) Determine the average emission factor (EF) for each production rate category (maximum = EF_{max}, normal = EF_{norm}, and minimum = EF_{min}).

(B) Determine the total annual production and operating hours, production time (PT_{tot}), for the calendar year.

(C) Determine the total hours operating within the maximum production rate category (PT_{max}). The maximum production rate category is any operation rate greater than the average of at least three maximum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2).

(D) Determine the total hours while operating within the normal production rate category (PT_{norm}). The normal production rate category is defined as any operating rate less than the average of at least three maximum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2) and any operating rate greater than the average of at least three minimum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2).

(E) Determine the total hours while operating within the minimum production rate category (PT_{min}). The minimum production rate category is defined as any operating rate less than the average of at least three minimum operating rates during the source testing plus the average of at least three normal operating rates during the source testing divided by two (2).

(F) Actual emissions equals EEAF x [(PT_{max}/PT_{tot})xEF_{max} + (PT_{norm}/PT_{tot})xEF_{norm} + (PT_{min}/PT_{tot})xEF_{min}].

(9) The permittee shall determine emissions during startup and shutdown, and for emissions greater than normal, during conditions that are not accounted for in the procedure(s) otherwise used to document

actual emissions:

- (a) ~~All emissions during startup and shutdown, and emissions greater than normal shall be assumed equivalent to operation without an air pollution control device, unless accurately demonstrated by the permittee and approved by the Department in accordance with OAR 340-20-650(9)(b), (9)(c), (9)(d), and (9)(e). The emission factor plus the EEAF shall be adjusted by the air pollution control device collection efficiency as follows:~~

$$\text{Actual emission factor} = \frac{EF \times EEAF}{1 - PCDE}$$

Where:

EF = Emission Factor

EEAF = Emission Estimate Adjustment Factor

PCDE = Pollution Control Device Collection Efficiency. Unless otherwise approved by the Department, the pollution control device collection efficiencies used in this calculation shall be:

Particulate Matter:

ESP or baghouse .90

High energy wet scrubber 0.80

Low energy wet scrubber 0.70

Cyclonic separator 0.50

Acid gases:

Wet or dry scrubber 0.90

Volatile Organic Compounds:

Incinerator 0.98

Carbon absorber 0.95

- (b) ~~During process startups a Department approved source test shall be performed to determine an average startup factor. The average of at least three tests runs plus the standard deviation shall be used to determine actual emissions during startups.~~
- (c) ~~During process shutdowns a Department approved source test shall be performed to determine an emission factor for shutdowns. The average of at least three test runs plus the standard deviation shall be used to determine actual emissions during shutdowns.~~
- (d) ~~During routine maintenance activity the permittee shall:~~
- ~~(A) Perform routine maintenance activity during source testing for verified emission factors.~~
 - ~~or~~
 - ~~(B) Determine emissions in accordance with Section (10) of this rule.~~
- (e) ~~The emission factor need not be adjusted if the permittee demonstrates to the Department that the pollutant emissions do not increase during startup and shutdown, and for conditions that are not accounted for the in procedure(s) otherwise used to document actual emissions (eg.~~

~~NO_x emissions during an ESP failure).~~

- ~~(10) A verified emission factor developed pursuant to OAR 340-20-500 through 340-20-660 and approved by the Department can not be used if a process change occurs that would affect the accuracy of the verified emission factor.~~
- ~~(11) The permittee may elect to use verified emission factors for source categories if the Department determines the following criteria are met:~~
- ~~(a) The verified emission factor for a source category shall be based on verified emission factors from at least three individual sources within the source category,~~
 - ~~(b) Verified emission factors from sources within a source category shall be developed in accordance with OAR 340-20-650,~~
 - ~~(c) The verified emission factors from the sources shall not differ from the mean by more than twenty percent, and~~
 - ~~(d) The source category verified emission factor shall be the mean of the source verified emission factors plus the average of the source emission estimate adjustment factors.~~

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

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93]~~**[Renumbered to OAR 340-28-2540]**

Late And Underpayment Interim Emission Fees

340-20-660 {

- ~~(1) Notwithstanding any enforcement action, the permittee shall be subject to a late payment fee of:~~
- ~~(a) Two hundred dollars (\$200) for payments postmarked more than seven (7) or less than thirty (30) days late, and~~
 - ~~(b) Four hundred dollars (\$400) for payments postmarked on or over thirty (30) days late.~~
- ~~(2) Notwithstanding any enforcement action, the Department may assess an additional fee of the greater of four hundred (\$400) or twenty percent (20%) of the amount underpaid for substantial underpayment.~~

~~Stat. Auth.: ORS Ch. 468 & 468A~~

~~Hist.: AQ 14 1992, f. & ef. 1-23-92; AQ 1 1993, f. & ef. 3-9-93]~~**[Renumbered to OAR 340-28-2550]**

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TABLE 1
AIR CONTAMINANT SOURCES AND
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(340-20-155)

NOTE: Fees in A-F are in addition to any other applicable fees

A. Late Payment	D. Modeling Review	E. Alternative Emission Control
a) 8-30 days \$200	a) Screening methodology \$ 500	Review \$1,500
b) > 30 days \$400	b) Refined methodology \$1,000	
B. BACT/LAER Determination \$12,500 each		F. Non-technical permit modification
G. Ambient Monitoring Network Review \$90		(name change, ownership transfer, and similar) \$50

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
1. Seed cleaning located in special control areas, commercial operations only (not elsewhere included)	0723	75	400	610
2. Reserved				
3. Flour and other grain mill products in special control areas	2041			
a) 10,000 or more tons/yr		75	1300	1200
b) Less than 10,000 tons/yr		75	1000	515
4. Cereal preparations in special control areas	2043	75	1300	865
5. Blended and prepared flour in special control areas	2045			
a) 10,000 or more tons/yr		75	1300	865
b) Less than 10,000 tons/yr		75	1000	500
6. Prepared feeds for animals and fowl in special control areas	2048			
a) 10,000 or more tons/yr		75	1300	1200
b) Less than 10,000 tons/yr		75	800	915
7. Beet sugar manufacturing	2063	75	1700	5955
8. Rendering plants	2077			
a) 10,000 or more tons/yr input		75	1600	1920
b) Less than 10,000 tons/yr input		75	1200	1040
9. Coffee roasting, 30 tons/yr or more roasted product	2095	75	800	785
10. Sawmills and/or planing mills	2421, 2426			
a) 25,000 or more bd. ft./shift finished product		75	800	1200
b) Reserved				
11. Reserved				

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b) > 30 days \$400	b) Refined methodology \$1,000	
B. BACT/LAER Determination \$12,500 each		F. Non-technical permit modification
C. Ambient Monitoring Network Review \$90		(name change, ownership transfer, and similar) \$50

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
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~~12. Reserved~~

~~13. Millwork (including structural wood members), 25,000 or more bd.ft./shift input 2431, 2439 75 600 945~~

~~14. Plywood manufacturing and/or veneer drying 2435, 2436~~

~~a) 25,000 or more sq.ft./hr, 3/8" basis finished product 75 2500 2420~~

~~b) 10,000 or more but less than 25,000 sq.ft./hr, 3/8" basis finished product 75 1800 1635~~

~~c) Less than 10,000 sq.ft./hr, 3/8" basis finished product 75 600 865~~

~~15. Reserved~~

~~16. Wood preserving (excluding waterborne) 2491 75 1000 960~~

~~17. Particleboard manufacturing (including strandboard, flakeboard and waferboard) 2493~~

~~a) 10,000 or more sq.ft./hr, 3/4" basis finished product 75 2500 2850~~

~~b) Less than 10,000 sq.ft./hr, 3/4" basis finished product 75 1200 1360~~

~~18. Hardboard manufacturing (including fiberboard) 2493~~

~~a) 10,000 or more sq.ft./hr, 1/8" basis finished product 75 2500 2340~~

~~b) Less than 10,000 sq.ft./hr, 1/8" basis finished product 75 1200 1200~~

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<p>B. BACT/LAER Determination \$12,500 each</p>	<p>C. Ambient Monitoring Network Review \$90</p>	

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
19. Battery separator mfg.	2499	75	1000	2080
20. Furniture and fixtures	2511			
a) 25,000 or more bd.ft./shift input		75	600	945
b) Reserved				
21. Pulp mills, paper mills, and paperboard mills	2611, 2621, 2631			
a) Kraft, sulfite, & neutral sulfite only		75	5000	10355
b) Other 100 tons or more of emissions		75	5000	10355
22. Building paper and building-board mills	2621, 2493	75	800	785
23. Alkalies and chlorine mfg.	2812			
a. High cost		75	2450	2750
b. Low cost		75	1400	2065
24. Calcium carbide manufacturing	2819			
a. High cost		75	2625	2750
b. Low cost		75	1500	2065
25. Nitric acid manufacturing	2819			
a. High cost		75	1750	1385
b. Low cost		75	1000	1040
26. Ammonia manufacturing	2819			
a. High cost		75	1750	1600
b. Low cost		75	1000	1200
27. Industrial inorganic and organic chemicals manufacturing				

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B. BACT/LAER Determination \$12,500 each		F. Non-technical permit modification
C. Ambient Monitoring Network Review \$90		(name change, ownership transfer, and similar) \$50

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
(not elsewhere included)	2819, 2869			
a. High cost		75	2275	1960
b. Low cost		75	1300	1475
28. Synthetic resin manufacturing	2821			
a. High cost		75	1750	1600
b. Low cost		75	1000	1200
29. Charcoal manufacturing	2861	75	1400	2500
30. Pesticide manufacturing	2879	75	2500	10355
31. Petroleum refining	2911			
a) Refining, general		75	5000	10355
b) Asphalt production by distillation		75	1000	1200
32. Reserved				
33. Asphalt blowing plants	2952	75	1000	1555
34. Asphaltic concrete paving plants	2951			
a) Stationary		75	500	590
b) Portable		75	500	750
35. Asphalt felts or coating	2952	75	500	900
36. Refined of lubricating oils and greases, and reprocessing of oils and solvents for fuel	2992	75	900	1120
37. Glass container manufacturing	3221	75	1000	1475
38. Cement manufacturing	3241	75	3200	7585

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<p>A. Late Payment</p> <p>a) 8-30 days \$200</p> <p>b) > 30 days \$400</p>	<p>D. Modeling Review</p> <p>a) Screening methodology \$ 500</p> <p>b) Refined methodology \$1,000</p>	<p>E. Alternative Emission Control Review \$1,500</p>
<p>B. BACT/LAER Determination \$12,500 each</p> <p>C. Ambient Monitoring Network Review \$90</p>	<p>F. Non-technical permit modification (name change, ownership transfer, and similar) \$50</p>	

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
39. Concrete manufacturing, including redimix and CTB	3271, 3272, 3273	75	200	320
40. Lime manufacturing	3274	75	1500	785
41. Gypsum products	3275	75	800	865
42. Rock crusher	1442, 1446, 3295			
a) Stationary		75	450	590
b) Portable		75	450	750
43. Steel works, rolling and finishing mills, electro-metallurgical products	3312, 3313	75	2500	2065
44. Incinerators	4953			
a) 250 or more tons/day capacity or any off site infectious waste incinerator		75	12000	5170
b) 50 or more but less than 250 tons/day capacity		75	3000	1570
c) 2 or more but less than 50 tons/day capacity		75	500	610
d) Crematoriums and pathological waste incinerators, less than 2 tons/day capacity		75	500	610
e) PCB and/or hazardous waste incinerator		75	12000	5170
45. Gray iron and steel foundries, Malleable iron foundries, Steel investment foundries, Steel Foundries (not elsewhere classified)	3321, 3322, 3324,			

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C. Ambient Monitoring Network Review \$90		(name change, ownership transfer, and similar) \$50

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
a) 3,500 or more tons/yr production	3325	75	2500	1810
b) Less than 3,500 tons/yr production		75	600	945
46. Primary aluminum production	3334	75	5000	10355
47. Primary smelting of zirconium or hafnium	3339	75	5000	10355
48. Primary smelting and refining of ferrous and nonferrous metals (not elsewhere classified)	3331, 3339			
a) 2,000 or more tons/yr production		75	2500	4480
b) Less than 2,000 tons/yr production		75	500	1730
49. Secondary smelting and refining of nonferrous metals, 100 or more tons/yr metal charged	3341	75	1200	1200
50. Nonferrous metals foundries, 100 or more tons/yr metal charged	3363, 3364, 3365, 3366, 3369	75	600	1040
51. Reserved				
52. Galvanizing and pipe coating (excluding all other activities)	3479	75	500	785
53. Battery manufacturing	3691	75	600	1040
54. Grain elevators, intermediate storage only, located in special control areas (not elsewhere classified)	4221			
a) 20,000 or more tons/yr grain processed		75	900	1635

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NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
b) Less than 20,000 tons/yr grain processed		75	500	785
55. Electric power generation	4911*			
a) Wood or Coal Fired, 25 MW or more		75	2000	10355
b) Reserved				
c) Oil or Natural Gas Fired, 25 MW or more		75	1800	2500
56. Fuel burning equipment for Gas production and/or distribution, 10 million or more Btu/hr heat input	4922, 4925			
a) Natural gas transmission		75	1900	1200
b) Natural gas production and/or mfg.		75	1900	1200
57. Grain elevators, terminal elevators, primarily engaged in buying and/or marketing grain, in special control areas	5153			
a) 20,000 or more tons/yr grain processed		75	2500	2065
b) Less than 20,000 tons/yr grain processed		75	700	785
58. Fuel Burning equipment within the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area Transportation Study Boundary, and Grants Pass-Klamath Falls, and LaGrande Urban Growth Areas**, ***	4961	(Fees will be based on the total aggregate heat input of all fuel burning equipment at the site)		
a) Residual or distillate oil fired, 250 million or more Btu/hr heat input		75	1600	1570
b) Residual or distillate oil fired,				

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<p>B. BACT/LAER Determination \$12,500 each</p> <p>C. Ambient Monitoring Network Review \$90</p>		

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
— 10 or more but less than 250 million Btu/hr heat input		75	1000	865
e) Reserved				
59. Fuel Burning equipment within the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area-Transportation Study Boundary, and Grants Pass-Klamath Falls, and LaGrande Urban Growth Areas** , ***	4961	(Fees will be based on the total aggregate heat input of all fuel burning equipment at the site)		
a) Wood or coal fired, 35 million or more Btu/hr heat input		75	1600	1570
b) Wood or coal fired, less than 35 million Btu/hr heat input		75	400	865
60. Fuel Burning equipment outside the boundaries of the Portland and Medford-Ashland Air Quality Maintenance Areas, Salem Area-Transportation Study Boundary, and Grants Pass-Klamath Falls, and LaGrande Urban Growth Areas** , ***	4961	(Fees will be based on the total aggregate heat input of all fuel burning equipment at the site)		
All oil fired 30 million or more Btu/hr heat input, and all wood and coal fired 10 million or more Btu/hr heat input		75	1000	865
61. Sources installed in or after 1971 not listed herein which would emit 10 or more tons/yr of any air contaminants including but not limited to particulates, SO _x , or Volatile Organic Compounds				

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 20 DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE 1
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-20-155)

NOTE: Fees in A-F are in addition to any other applicable fees

A. Late Payment	D. Modeling Review	E. Alternative Emission Control
a) ≤ 30 days \$200	a) Screening methodology \$ 500	Review \$1,500
b) > 30 days \$400	b) Refined methodology \$1,000	
B. BACT/LAER Determination \$12,500 each		F. Non-technical permit modification
C. Ambient Monitoring Network Review \$90		(name change, ownership transfer, and similar) \$50

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
(VOC), if the source were to operate uncontrolled. any				
a) High cost		75	9000	6400
b) Medium cost		75	2500	1120
c) Low cost		75	600	480
62. Sources installed in or after 1971 not listed herein which would emit significant malodorous emissions, as determined by Departmental review of sources which are known to have similar air contaminant emissions. any				
a) High cost		75	9000	6400
b) Medium cost		75	2500	1120
c) Low cost		75	600	480
63. Sources not listed herein for which an air quality problem is identified by the Department any				
a) High cost		75	9000	6400
b) Medium cost		75	2500	1120
c) Low cost		75	600	480
64. Bulk Gasoline Plants regulated by OAR 340-22-120****	5171	75	400	515
65. Bulk Gasoline Terminals****	5171	75	4000	1730
66. Liquid Storage Tanks, 39,000 gallons or more capacity, regulated by OAR 340-22-160 (not elsewhere included)****	5169, 5171	75	200/tank	355/tank
67. Can or drum Coating****	3411, 3412			
a) 50,000 or more units/mo.		75	6000	3195

OREGON ADMINISTRATIVE RULES
CHAPTER 340, DIVISION 20 DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE 1
AIR CONTAMINANT SOURCES AND
ASSOCIATED FEE SCHEDULE
(340-20-155)

NOTE: Fees in A-F are in addition to any other applicable fees

A. Late Payment	D. Modeling Review	E. Alternative Emission Control
a) 8-30 days \$200	a) Screening methodology \$ 500	Review \$1,500
b) > 30 days \$400	b) Refined methodology \$1,000	
B. BACT/LAER Determination \$12,500 each		F. Non technical permit modification
C. Ambient Monitoring Network Review \$90		(name change, ownership transfer, and similar) \$50

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

Air Contaminant Source	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
b) Less than 50,000 units/mo.		75	400	690
68. Paper or other substrate Coating****	3861	75	6000	3105
69. Coating Flat Wood regulated by OAR 340-22-200****	2435	75	2000	1040
70. Surface Coating, Manufacturing****	any			
a) 100 or more tons VOC/yr		75	2000	1380
b) 10 or more but less than 100 tons VOC/yr		75	600	690
c) less than 10 tons VOC/yr (at sources request)		75	200	290
71. Flexographic or Rotogravure printing, 60 or more tons VOC/yr per plant****	2754, 2759	75	2250	2000
72. Reserved				
73. Sources subject to NESHAPS rules (except demolition and renovation)	any	75	400	500
74. Sources requiring toxic air pollutant review (not elsewhere classified)	any	75	1000	960
75. Soil Remediation Plants	1799			
a) Stationary		75	1000	945
b) Portable		75	1000	1200

~~* Excluding hydro electric and nuclear generating projects.~~
~~** Including co-generation facilities of less than 25 megawatts.~~
~~*** Legal descriptions and maps of these areas are on file in the Department.~~

OREGON ADMINISTRATIVE RULES
 CHAPTER 340, DIVISION 20 DEPARTMENT OF ENVIRONMENTAL QUALITY

TABLE 1
 AIR CONTAMINANT SOURCES AND
 ASSOCIATED FEE SCHEDULE
 (340-20-155)

NOTE: Fees in A-F are in addition to any other applicable fees

A. Late Payment a) 8-30 days \$200 b) > 30 days \$400	D. Modeling Review a) Screening methodology \$ 500 b) Refined methodology \$1,000	E. Alternative Emission Control Review \$1,500 F. Non technical permit modification (name change, ownership transfer, and similar) \$50
B. BACT/LAER Determination \$12,500 each C. Ambient Monitoring Network Review \$90		

NOTE: Persons who operate boilers shall include fees as indicated in Items 58, 59, or 60 in addition to fee for other applicable category.

	Standard Industrial Classification Number (Reference Only)	Filing Fee	Application Processing Fee	Annual Compliance Determination Fee
Air Contaminant Source				

~~**** Permit for sources in categories 64 through 71 are required only if the source is located in the Portland AQMA, Medford-Ashland AQMA or Salem SATS. [Renumbered to OAR 340-28-1720]~~

DIVISION 14

PROCEDURES FOR ISSUANCE,
DENIAL, MODIFICATION, AND
REVOCAION OF PERMITS

Exceptions

340-14-007 The procedures prescribed in this Division do not apply to the issuance, denial, modification and revocation of the following permits: National Pollutant Discharge Elimination System (NPDES) permits issued pursuant to the Federal Water Pollution Control Act Amendments of 1972 and acts amendatory thereof or supplemental thereto, as prescribed by OAR Chapter 340, Division 45; Resource Conservation and Recovery Act (RCRA) permits as prescribed by OAR Chapter 340, Division 106; ~~and~~ the Underground Storage Tank (UST) permits as prescribed by OAR Chapter 340, Division 150; and federal operating permits issued pursuant to the Federal Clean Air Act Amendments of 1990 as prescribed by OAR Chapter 340, Division 28.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the Environmental Quality Commission under OAR 340-20-047.]

Stat. Auth.: ORS Ch. 459, 468, 468A & 468B

Hist.: DEQ 53(Temp), f. & ef. 6-21-73; DEQ 58, f. 9-21-73, ef. 10-15-73; DEQ 13-1988, f. & cert. ef. 6-17-88

[ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.]

NOTICE OF PROPOSED RULEMAKING HEARING

AGENCY: Department of Environmental Quality, Air Quality Division

The above named agency gives notice of hearing.

HEARING TO BE HELD:

DATE:	TIME:	LOCATION:
June 25, 1993	2 p.m.	Room 3-A, DEQ Headquarters, 811 S.W. 6th Ave., Portland
June 28, 1993	1 p.m.	Meeting Room 2, Springfield City Hall, 225 N. 5th St., Springfield
June 29, 1993	2 p.m.	Medford City Council Chambers 411 W. 8th St., Medford
June 30, 1993	2 p.m.	Room 154, Boyle Education Center, Central Oregon Community College, 2600 NW College Way, Bend
July 1, 1993	2 p.m.	Vert Little Theater, S.W. 4th & Dorion, Pendleton

Hearings Officer: Kevin Downing (all hearings but Springfield)
Don Arkell (Springfield hearing)

Pursuant to the Statutory Authority of ORS 468.020, ORS 468.035, and Chapter 468A, Oregon Laws 1991, the following action is proposed:

ADOPT: OAR 340-28-100 through OAR 340-28-2550 (Includes new rules and rules moved from OAR Division 20 as noted below. Previous Division 28 rules were moved to OAR Division 30 in action taken January 6, 1993, by the Environmental Quality Commission);
OAR 340-32-100 through OAR 340-32-4500

AMEND: OAR 340-20-001 through OAR-340-20-047;
OAR-340-20-140 through OAR-340-20-380;
OAR-340-20-450 through OAR 340-20-660

B No Prior Notice Given

SUMMARY:

This rulemaking implements the federal Clean Air Act Amendments of 1990 pertaining to two related activities: (1) Requirements that

states adopt rules to implement the Title V federal operating permit program for stationary sources of air pollution, and (2) Requirements that states adopt rules to implement Title III provisions for regulating emissions of hazardous air pollutants (air toxics) from stationary sources. These actions will help ensure that the state's significant sources of air pollution comply with the Clean Air Act Amendments of 1990. They will also expand the scope of regulation to include emission standards and controls for hazardous air pollutants as required by the Amendments. The proposed rules apply both to programs implemented by the Department of Environmental Quality and, in Lane County, by the Lane Regional Air Pollution Authority (LRAPA). The rules must be adopted by the Oregon Environmental Quality Commission prior to submission of the state's Title V permit program to the U.S. Environmental Protection Agency (EPA). Submission is required by November 15, 1993.

Portions of this rulemaking constitute a revision to the State Implementation Plan (SIP) for the Clean Air Act, primarily re-numbering. Rules for implementing Title V and Title III of the Clean Air Act Amendments are not intended to be part of the SIP.

Interested persons may comment on the proposed rules orally or in writing at the hearing. Written comments received by 5 p.m., July 9, 1993, will also be considered. Written comments should be sent to and copies of the proposed rulemaking may be obtained from:

AGENCY: Department of Environmental Quality

ADDRESS: Air Quality Division
811 S.W. 6th Avenue
Portland, Oregon 97204

ATTN: Terry Obteshka

PHONE: (503) 229-6147 or Toll Free 1-800-452-4011

Signature

Date

PROPOSED RULES TO IMPLEMENT THE FEDERAL OPERATING PERMIT AND HAZARDOUS AIR POLLUTANT PROGRAMS REQUIRED BY THE CLEAN AIR ACT

Date Issued:	May 24, 1993
Public Hearings:	June 25, 28, 29, 30 and July 1, 1993
Comments Due:	July 9, 1993

**WHO IS
AFFECTED:**

Commercial and industrial stationary sources of air pollution required to obtain federal operating permits under Title V of the Clean Air Act Amendments of 1990. Also, commercial and industrial stationary sources of hazardous air pollutant emissions (air toxics) subject to regulation under Title III of the Amendments.

**WHAT IS
PROPOSED:**

The proposed rules address two related state requirements of the Clean Air Act Amendments:

(1) Implementation of the Title V federal operating permit program for major and other significant stationary sources of air pollution, including emissions of hazardous air pollutants;

(2) Implementation of the Title III provisions for regulating emissions of hazardous air pollutants from stationary sources.

The proposed rules apply to program implementation by both the Department of Environmental Quality and, in Lane County, the Lane Regional Air Pollution Authority (LRAPA). Portions of this rulemaking constitute a revision to the State Implementation Plan (SIP) for the Clean Air Act, primarily re-numbering. Those portions, which primarily involve re-numbering, are identified by a footnote. Rules for implementing Title V and Title III of the Clean Air Act Amendments are not intended to be part of the SIP.

**WHAT ARE THE
HIGHLIGHTS:**

The proposed rules will help ensure that Oregon's environmentally significant stationary sources of air pollution comply with all applicable regulatory provisions of the Clean Air Act Amendments of 1990. The rules cover:

- How the federal operating permit program will be administered, including procedures for obtaining, complying with, revising and renewing the permit. (Permit fees, which must be based on air pollutant emissions, will be the subject of a separate rulemaking later this year.)
- Administrative changes to integrate the Title V permit program with existing Oregon air pollution control regulations, including the present Air Contaminant Discharge Permit program.
- What air pollution sources must obtain federal operating permits. (The primary focus is on major air pollution sources as defined in the Clean Air Act Amendments. The program may also apply to certain smaller emission sources.)
- Specific elements the federal operating permit must contain to meet Clean Air Act requirements.
- Provisions for judicial review and public petition relating to Title V permit actions.
- Provisions for the use of general Title V permits in certain cases. (A general permit is a single permitting document that covers a category or class of many similar sources.)
- How the Title V permit program relates to implementing Clean Air Act requirements for air toxics and acid rain.
- What stationary sources of air pollution will be subject to new requirements under Title III of the Amendments for controlling emissions of hazardous air pollutants.
- Procedures for adopting hazardous air pollutant emission standards when they are promulgated by the U.S. Environmental Protection Agency (EPA), as well as related technology standards.
- Provisions for stationary sources of air toxics to receive consideration for participating in a program to significantly reduce emissions in advance of regulatory requirements.

- Provisions to include in permits emission standards for hazardous air pollutants that will reduce unreasonable residual risk to public health and the environment.
- Provisions for application of control technology to stationary sources that emit hazardous air pollutants.
- Provisions for chemical accident prevention.

**HOW TO
COMMENT:**

Public Hearings to provide information and receive public comment are scheduled as follows:

Portland	June 25, 1993 - 2:00 p.m. Room 3-A, DEQ Headquarters, 811 S.W. 6th Ave.
Springfield	June 28, 1993 - 1:00 p.m. Meeting Room 2, Springfield City Hall, 225 N. 5th St.
Medford	June 29, 1993 - 2:00 p.m. Medford City Council Chambers 411 W. 8th St.
Bend	June 30, 1993 - 2:00 p.m. Room 154, Boyle Education Center Central Oregon Community College 2600 N.W. College Way
Pendleton	July 1, 1993 - 2:00 p.m. Vert Little Theater S.W. 4th & Dorion

Information Meetings:

DEQ will hold information meetings in Portland, Eugene, Medford, Bend and Pendleton on the proposed rules, from 10:00 a.m. to noon on Thursday, June 10, 1993. The meetings will be linked via the teleconference facilities of Oregon ED-NET. Participants will have opportunities to ask questions of DEQ staff members at the

teleconference broadcast site in Portland. The meetings are scheduled as follows:

Portland:	ST Building, Room A-1 Portland Community College Sylvania Campus 12000 S.W. 49th Ave.
	(Tentative) World Trade Center, Room A 121 S.W. Salmon
Eugene:	Center Building, Room 10 Lane Community College 4000 E. 30th Ave.
Medford:	Smullin Center, Room 102 Rogue Valley Medical Center 2825 Barnett Road
Bend:	Boyle Education Center, Room 159. Central Oregon Community College 2600 N.W. College Way
Pendleton:	Emigrant Hall, Room 104 Blue Mountain Community College 2411 N.W. Carden

Submitting Written Comments:

Written comments must be received by 5:00 p.m. on July 9, 1993, at the following address:

Department of Environmental Quality
Air Quality Division
811 S.W. 6th Avenue
Portland, Oregon, 97204

The proposed rules may be reviewed at the above address. To obtain copies of the proposed rules, or for more information, call Terry

Obtreshka in the DEQ Air Quality Division, (503) 229-6147 or toll-free 1-800-452-4011 within Oregon.

**WHAT IS THE
NEXT STEP:**

The Department will evaluate comments received and will make a recommendation to the Environmental Quality Commission. Interested parties can request to be notified of the date the Commission will consider the matter by writing to the Department at the above address.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Federal Operating Permit Program
and
Control of Hazardous Air Pollutants Rule Adoption

Rulemaking Statements

Pursuant to ORS 183.335(7), this statement provides information about the Environmental Quality Commission's intended action to adopt a rule.

1. Legal Authority

This proposal is to adopt new Oregon Administrative Rules to implement the federal operating permit program as required by the Federal Clean Air Act Amendments of 1990. It is proposed under the authority of ORS 468.020 and 468A.310.

2. Need for the Rule

The Clean Air Act Amendments of 1990 require states to develop a comprehensive permitting program. State program submittals are due to EPA on or before November 15, 1993. Currently there are no Oregon Administrative Rules (OAR) which implement the new federal operating permit program. Oregon Revised Statutes (ORS) 468A.310(1) specifically directs DEQ to prepare and submit to EPA for approval a federal operating permit program as required to implement Title V of the Federal Clean Air Act. The proposed rules contain the procedural rules and the hazardous air pollutant control rules necessary for program submittal.

3. Principal Documents Relied Upon in this Rulemaking

Documents relied upon in this rulemaking include:

- Final EPA Rules, 57 Federal Register 32,250 (July 21, 1992), codified at 40 CFR Part 70

- Proposed EPA Rules, 56 Federal Register 43,842 (September 4, 1991)
- Federal Clean Air Act Amendments of 1990, 42 USC Sections 7661 et seq.
- Rules for controlling hazardous air pollutants from the states of Washington, Maryland, and Wisconsin
- National Emission Standards for Hazardous Air Pollutants, Subpart D - Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants, 40 CFR Part 63, Chapter I
- Enabling Document for Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants, EPA 450/3-91-013, OAQPS, July, 1991
- Questions and Answers about the Early Reductions Program, OAQPS, January, 1992
- Guidelines for Submitting Enforceable Commitments, USEPA, OAQPS, Emission Standards Division, May 1992

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR PROPOSED FEDERAL OPERATING PERMIT PROGRAM**

PROPOSAL SUMMARY

Title V of the Clean Air Act, Public Law 101-549, enacted on November 15, 1990, specifies the minimum elements of state operating permit programs. The Oregon Department of Environmental Quality has proposed revisions to existing rules at OAR Divisions 14, 20, and 28, and new hazardous air pollutant rules at OAR Division 32, pursuant to the proposed implementation of the federal operating permit program in Oregon.

COSTS TO THE REGULATED COMMUNITY

The proposed rules establish a new operating permit program for industrial sources with a potential to annually emit either:

- A. 100 tons of any criteria pollutant, (CO, NO_x, SO₂, O₃, Pb, PM₁₀): or
- B. 10 tons of any single listed hazardous air pollutant or a combined 25 ton emission of any combination of listed hazardous air pollutants.

The direct cost to these affected industrial sources includes the administrative burden in securing and modifying operating permits, and associated fees designed to cover the costs that the Department or the Lane County Regional Air Pollution Authority will incur in administering the operating permit program.

Under executive order 12291 (E.O. 12291), EPA was required to prepare a Regulatory Impact Analysis (RIA) in connection with the Title V program. The estimate for the annual direct cost to 34,000 major sources and permitting agencies is \$526 million. Extrapolation of this data to Oregon, with an estimated 300 major source universe, yields an estimated direct cost of \$4,650,000 to its major sources and permitting agencies. Excluded from consideration are the associated costs to the industrial source's compliance with emission limits and other applicable requirements implemented through the operating permit. The Department estimates that the average direct cost of higher fees will be \$3,700,000 per year as noted below.

Permittees Impacted

The primary types of companies affected in the private sector include, but are not limited to: electronics, electric utility generators, metals, pulp and paper, and wood products. The Department estimates that a total of approximately 300 permittees would be impacted by these rules.

In the public sector, only those local and state government agencies that are major sources with respect to the Title V program would be affected. Agencies that operate permitted fuel burning equipment, for example, Oregon Health Sciences University and Oregon State University, would be subject to these rules. The Port of Portland, a ship coating and repair facility, would also be impacted.

Small Business

Pursuant to the Regulatory Flexibility Act, the EPA has quantified and described the expected impact of this rule on small entities, (i.e. small businesses, organizations, and governmental jurisdictions). Pursuant to this analysis, EPA has certified that the Title V rules as promulgated will not have a significant economic impact on a substantial number of small business entities.

Accommodations to the small business community include the provisions in these rules that defer the applicability of these rules to non-major sources. Additionally, the Department has established a Small Business Assistance program to accommodate the particular regulatory and technical air quality control needs of Oregon's small business community.

AIR EMISSION FEES

Existing Air Emission Fees

In response to the Clean Air Act Amendments, the 1991 Oregon legislature passed House Bill 2175 which authorized the Department to collect interim emission fees, at \$13 per ton, to fund development of the Title V program. These interim emission fee rules applied to approximately 150 industrial sources emitting PM₁₀, Oxides of Nitrogen, Sulfur Dioxide, Volatile Organic Compounds and pollutants regulated under Section 111 (New Source Performance Standards) of the Clean Air Act such as Total Reduced Sulfur and Fluoride. They do not apply to carbon monoxide or air toxics regulated under Section 112 of the Clean Air Act. For calendar year 1991, these fees were assessed against a combined industrial emission of 63,461 tons, resulting in revenue of \$825,000.

Industrial sources subject to the Department's Air Contaminant Discharge Permit (ACDP)

program, and which will become subject to the Title V program, pay associated permit fees of approximately \$450,000 per year.

Upon the Department's implementation of the operating permit program, both the interim emission fees, and the ACDP permit fees for sources subject to the Title V program, will be replaced by the Title V emission fees, user fees, and a base fee.

Proposed Air Emission Fees

Senate Bill 86, introduced into the 1993 Oregon Legislative Session, will amend the Department's general fee collection authority and extend the Environmental Quality Commission's authority to establish a schedule of fees to carry out the applicable requirements of Title V. These fees are required by the Clean Air Act to cover all Department costs of regulating Title V sources, not solely the cost of the permit program itself. Total fee revenue needed is approximately \$4,150,000 per year.

General Public Impact

There would be no direct economic impact to the general public as a result of these proposed rules. The only known costs to the general public would be possible pass-through costs to customers, but the impact is assessed to be negligible.

Economic Impact to the Department of Environmental Quality

The economic impacts to the Department of Environmental Quality will be an increase in revenues and staffing. A 29 full time equivalent (FTE) position increase is associated with the continuing development, implementation, and enforcement of the Federal Operating Permit Program and all associated indirect activities.

BENEFITS

The benefits of this rule include more efficient enforcement of criteria pollutant emissions standards, with a commensurate improvement in air quality in Oregon. Implementation of the Clean Air Act through these proposed rules is expected to reduce aggregate air toxic emissions by over 75% within 10 years largely through application of maximum achievable control technology standards for each listed industrial source category according to a prescribed schedule.

These regulations are not otherwise expected to effect air quality as the rule does not address ambient air or emission standards.

Consultants, including small businesses that provide equipment and services are projected to benefit from the expanded market for complying with these regulations.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Part 70 and Control of Hazardous Air Pollutants Rule Adoption

Land Use Evaluation Statement

1. Explain the purpose of the proposed rules.

Oregon Revised Statutes (ORS) 468A.310(1) specifically directs the Department to prepare and submit to EPA for approval a federal operating permit program as required to implement Title V of the Federal Clean Air Act Amendments of 1990. The proposed rules contain the rules necessary for program submittal.

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, identify existing program/rule/activity:

- Approval of Notice of Construction (NC) for Air Pollution Sources
- Issuance of Air Contaminant Discharge Permit (ACDP)

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes X No

The Department proposes amending two existing Department procedures, Approval of Notice of Construction (NC) for Air Pollution Sources and Issuance of Air Contaminant Discharge Permits (ACDP), as well as a providing a new procedure for Issuance of Part 70 Permits.

The procedures for Approval of Notice of Construction for Air Pollution Sources and Issuance of Air Contaminant Discharge Permits need to be amended to include new sources subject to the federal operating permit program, "Part 70 sources". All

permit applicants subject to this new program will be required to submit a Land Use Compatibility Statement, LUCS, which contains the local government's determination of land use compatibility with the permit application.

The new procedure for Issuance of Part 70 Permits is based the following authorities: the federal Clean Air Act Amendments of 1990, 40 CFR Part 70, ORS 468A.310, and new rules proposed in this rule package. Permit applicants will be required to submit a LUCS which contains the local government's determination of land use compatibility with the permit application.

c. If no, apply the following criteria to the proposed rules.

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

Sh Menwood

Division

Robert L. ...
Intergovernmental Coord.


7-27-93
Date

State of Oregon
Department of Environmental Quality

Memorandum

Date: August 4, 1993

To: Environmental Quality Commission

From: Kevin  Downing, Presiding Officer

Subject: Hearings Report for Oregon Federal Operating Permit Program (Portland, Springfield, Medford, Bend, Pendleton Hearings)

Five hearings were held to accept testimony on proposed rules that will fulfill Oregon's duty to comply with Title V of the Federal Clean Air Act as amended in 1990.

On June 25, 1993 a public hearing was held in Room 3A at the Portland headquarters office of DEQ, 811 SW 6th, Portland. Sixteen persons attended, 5 persons made oral comments. No written comments were submitted at the time but ultimately written comments were received by mail or fax from 39 individuals.

On June 28, 1993 a public hearing was held in Meeting Room 2 of the Springfield City Hall, 225 North 5th, Springfield. Sixteen persons attended, four persons gave oral comments and one person provided written testimony. The presiding officer for this hearing was Donald R. Arkell. His report of testimony received is attached.

On June 29, 1993 a public hearing was held in the City Council Chambers, 411 W 8th, Medford. Twenty eight persons attended, twelve persons gave oral comments and eight persons provided written testimony at the time.

On June 30th, 1993 a public hearing was held in Room 154 of the Boyle Education Center, Central Oregon Community College, 2600 NW College Way, Bend. Four persons attended, no one provided written or oral comments.

On July 1, 1993 a public hearing was held in the Vert Little Theater, SW 4th and Dorian, Pendleton. Eleven people attended, one person gave written and oral comments.

The following report provides a summary of written and oral comments made, including comments provided at the Springfield hearing. Comments are grouped by similar subject areas and associated with a proposed rule, where identifiable. The persons who made the comment are identified by a code which is keyed to the entries in the Testimony References table.

In order to enhance readability, with the large number of comments received, the staff responses to comment have also been incorporated into this document but are printed *bold and italicized*.



MEMORANDUM

TO: Oregon Environmental Quality Commission

FROM: Donald R. Arkell, Hearings Officer *DR*

SUBJ: Title V Permitting Rules, Public Hearing, June 28, 1993

Summary of Procedure

Pursuant to public notice, a public hearing was convened by the Department of Environmental Quality at 1:00 p.m. on June 28, 1993 in Meeting Room No. 2 of the Springfield City Hall, 225 North 5th, Springfield, Oregon. As director of LRAPA, I served as hearings officer for the Oregon Environmental Quality Commission at this hearing. The purpose of the hearing was to receive testimony concerning proposed adoption of proposed rules for major source permitting under the provisions of Title V of the Clean Air Act of 1990.

Summary of Testimony

Four individuals provided testimony at the hearing. Following is a summary of that testimony.

1. **Ruth Duemler, 1745 Fircrest, Eugene OR 97403**

Ms. Duemler spoke on behalf of 25 environmental organizations and concerned individuals (complete list included in attached copy of written comments). The main concern she expressed was that air quality in Oregon not be allowed to deteriorate further and that the Clean Air Act be firmly upheld. Her comments included specific opposition to:

- A. Backsliding on current programs and policies;
- B. Deletion of a list of 800 hazardous chemicals currently used to quantify emissions from a source;
- C. Industry's proposal to repeal the HBPC rule (in fact, Ms. Duemler said the organizations and individuals she represented would suggest going to BACT in areas where pollution would increase);
- D. General permits;

- E. Broad definitions of insignificant activities;
- F. Use of administrative amendments for anything but actual administrative amendments;
- G. Allowing any increase of regulated pollutants to qualify as an off permit change;
- H. Industry's proposed broad affirmative defense for excess emissions; and
- I. Inclusion of permit shield provisions in permits.

The following additional comments were included in Ms. Duemler's comments:

- The public must be informed and given adequate opportunities to comment on all significant proposals related to air pollution. She considered notice of this hearing to have been adequate.
- All affected citizens must have broad rights to bring actions under the air program, when appropriate. Rules should not have loopholes.
- Hazardous air pollutants pose a risk to public health and the environment, and the Department should not defer permitting of non-major sources of HAP. The Department's intention to address residual emissions of HAP in the new rules was supported.
- There should be a process for amending rules which assures that local and state conditions will be a factor in any new rules.
- The Department should ensure that its rules at least meet the intent of the federal Clean Air Act and should propose rules stronger than EPA's when appropriate.
- Fees should be sufficient to cover all aspects of a full program. Some aspects of the proposed rules are less than they should be due to the state's limited resources. The fees should be based on permitted emissions, rather than on presumed actual emissions, unless CEM data are used to demonstrate actual emissions. Fees should be automatically adjusted for inflation, rather than having the EQC make such determinations.

2. John Saemann, 2745-1/2 Lincoln, Eugene OR 97405-2719

Mr. Saemann said that notice of this hearing was not adequate, and that he had heard about it quite by accident. He said that, while he can appreciate industry's side of this issue, he feels the time has come to recognize that the airshed cannot be used as a sewer. Because the long-term effects of new

chemicals being used in industrial processes may not be known for 10 to 20 years, he strongly supports strengthening air quality regulations rather than relaxing them. In addition, Mr. Saemann said that self-administration of emissions should not be allowed--that emissions should be monitored by a neutral party such as DEQ. He believes that the state standards should exceed EPA's requirements and should certainly never be less stringent. Mr. Saemann said his comments are not a fight between environmentalists and industry. He simply feels that the air that everyone breathes needs to be preserved and improved, instead of allowing it to deteriorate further.

3. John Albrecht, 3550 Willamette, Eugene OR 97405

As an activist in the Sierra Club, Mr. Albrecht addressed two issues:

- A. The public hearings on these proposed rules are all scheduled for 1:00 or 2:00 in the afternoon when many people are unable to attend. Some of the hearings should be scheduled during evening hours. In addition, this hearings was not widely advertised.
- B. The rulemaking process should carefully address Volatile Organic Compounds from all sources, where he understands correction is relatively attainable and not too expensive. Mr. Albrecht mentioned reference in the hearing handout materials to a settlement with the Sierra Club in a lawsuit involving VOCs. He said that, in addition to the VOC's specified in the lawsuit, he understands that because most of Oregon's gasoline comes by barge, approximately 1200 tons of gasoline evaporates into the airshed in the Portland area. Also, his understanding is that, because the state does not have self-service gasoline, the nozzles at gas pumps are not configured to capture escaping fumes. Mr. Albrecht said that a chemical engineer had advised him that the VOCs released into the air as a result of shipment and pumping of gasoline are more damaging to human health than if it had been burned in motor vehicles or other combustion engines.

3. James Kovack, 60 W. 22nd, Eugene OR (PO Box 1067, 97440

Mr. Kovack's comments concerned the practicality of rules from an industrial management point of view. He said that he agrees with the rules and regulations but believes that, since everyone benefits from environmental controls, the cost of cleaning up the air must be borne by everyone--not just industry. When industry is forced to pay for cleaning up the air, it hurts the area's employment base. When air quality guidelines are developed, they should take into account what is going on in the entire community, not just with industry.

Action of the Hearings Officer

The public hearing was closed at 1:30 p.m. Instructions were repeated, that written testimony could be submitted until July 9 to Kevin Downing, Air Quality Division, Department of Environmental Quality, 811 SW Sixth Ave., Portland OR 97204.

DRA/MJD

Testimony References

Public Testimony Given/Received In Portland

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
P1	Yes	Yes	Steven P. Van Ootegham Environmental Engineer Blount, Inc.
P2	Yes	Yes	Dick Nachbar Western Region Environmental Manager Boise Cascade Corporation
P3	Yes	Yes	Rick Hess Environmental Services Portland General Electric
P4	Yes	Yes	Marcia Anderson Sierra Club
P5	Yes	Yes	David Harvey Pacific Engineering
P6	Did Not Attend (DNA)	Yes	Jeff Bickford Senior Civil Engineer Marion County Department of Solid Waste Management
P7	DNA	Yes	Dean C. DeLorey Corporate Environmental Engineer The Amalgamated Sugar Company
P8	DNA	Yes	Tom Neff Carol Neff Residents, West Linn
P9	DNA	Yes	Karyn Jones Citizens for Environmental Quality Lauri Aunan OSPIRG Bob Palzer Sierra Club
P10	DNA	Yes	Laurie Power Environmental Manager Eugene Water and Electric Board

P11	DNA	Yes	Leonard W. Lanfranco Executive Director Oregon Newspapers Publishers Association
P12	DNA	Yes	Thomas B. Stibolt, Jr., M.D. Lisa P. Brenner, Ph.D. Residents, Sherwood
P13	DNA	Yes	Larry Hurst President Communications Workers of America Local 7908
P14	DNA	Yes	Reuben Balzer, M.D. Resident, Ashland
P15	DNA	Yes	William E. Lucas, M.D. Resident, Ashland
P16	DNA	Yes	Virginia Lemon, Ph.D. Resident, Ashland
P17	DNA	Yes	Raymond P. Nolan, M.D., Ph.D. Resident, North Bend
P18	DNA	Yes	Karyn Jones Resident, Hermiston
P19	DNA	Yes	Dr. and Mrs. Mark Jones Residents, Hermiston
P20	DNA	Yes	Susan Lee Jones Council on Environmental Quality
P21	DNA	Yes	Theresa Parrone Air & Water Quality Programs Manager Tektronix
P22	DNA	Yes	Bonnie Gariepy Intel Senior Environmental Engineer
P23	DNA	Yes	Gary Walker VP, Engineering and Construction Pacific Gas Transmission Company
P24	DNA	Yes	Kelly J. Champion Environmental/Safety Administrator Ogden Martin Systems of Marion, Inc.
P25	DNA	Yes	Jim Whitty Associated Oregon Industries

P26	DNA	Yes	Doug Morrison Northwest Pulp and Paper
P27	DNA	Yes	Tom Kerr Rogue Valley Air Quality Coalition
P28	DNA	Yes	Eileen Adee Resident, Medford
P29	DNA	Yes	David Bray Permit Programs Manager Environmental Protection Agency, Region X
P30	DNA	Yes	Fritz & Ginger Bachem Residents, Myrtle Creek
P31	DNA	Yes	Mr. & Mrs. Clyde R. Carpenter Residents, Hermiston
P32	DNA	Yes	L. W. Hoops Manager, Planning & Regulatory Pacific Gas Transmission
P33	DNA	Yes	Nancy Crumpacker, M.D. Resident, Tualatin

Public Testimony Given In Springfield

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
S1	Yes	Yes	Ruth Duemler Citizens for Environmental Quality et al Karyn Jones Citizens for Environmental Quality Lauri Aunan OSPIRG Bob Palzer Sierra Club
S2	Yes	No	John Saemann Resident, Eugene
S3	Yes	No	John Albrecht Volunteer Activist, Sierra Club

S4	Yes	No	James Kovack Resident, Eugene
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Public Testimony Given In Medford

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
M1	Yes	Yes	Wally Skyrman Patient Representative American Lung Association of Oregon
M2	Yes	Yes	Sharla Moffett Executive Vice President Southern Oregon Timber Industries Association
M3	Yes	Yes	Raymond Stalnaker Corporate Safety Director Croman Corporation
M4	Yes	Yes	Mavis McCormic League of Women Voters of Oregon
M5	Yes	Yes	Myra Erwin Resident, Ashland
M6	Yes	Yes	C. Herschel King, M.D. Retired
M7	Yes	Yes	Frank H. Hirst Air Quality Representative Ashland League of Women Voters
M8	Yes	Yes	Phyllis Hughes Coalition to Improve Air Quality
M9	DNA	Yes	Mary Ford Resident, Medford
M10	Yes	Yes	Ted Bauer President Medite Corporation
M11	Yes	No	Dan Kellogg Resident, Gold Hill
M12	Yes	No	Charlie Taylor Safety & Environmental Engineer Jeld-Wen

M13	Yes	Yes	Mary-Kay Michelsen Resident, Ashland
M14	DNA	Yes	Nancy Linton Friends of the Greensprings
M15	DNA	Yes	Janis Young Resident, Ashland
M16	DNA	Yes	Anne K. Gottschalk Resident, Talent
M17	DNA	Yes	Miriam E. McMullen Resident, Medford

Public Testimony Given In Bend

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
	None	None	

Public Testimony Given In Pendleton

<u>No.</u>	<u>Oral Testimony</u>	<u>Written Comment</u>	<u>Name and Affiliation</u>
PN1	Yes	Yes	Glen Patrick Environmental Engineer Boise Cascade Corporation

Comments on Division 28 rules

Testimony Summary/Issues

Whose Comment

DEVELOPMENT OF PROPOSED RULE PACKAGE

1. M2, M3, M10

Southern Oregon businesses were not given an opportunity to participate in development of rules.
The Air Quality Industrial Source Control Advisory Committee was established to provide a broad base of people representing industry, environmental groups, and the public. Industries represented are electronics, small business, paper and wood products, and general industry. The AOI representative and the industrial consultant in particular represent statewide interests. The Public-At-Large position is held by a law school professor, not an industry, environmental group, or regulatory designee. Environmental and public interest groups represented on the Committee are active statewide, except for one member's group, which is active in Eastern Oregon. The Department tasked each Advisory Committee member with the responsibility of representing its constituents regarding issues discussed at the Advisory Committee meetings. The Department encourages anyone who does not feel well represented to talk with his or her representative on the Committee.
2. M3

Packet includes estimated cost of increased fees but does not include cost of compliance for industrial sources.
The Department feels that this comment was addressed in the Fiscal Impact Statement.
3. M10

Proposed rules were adopted with the aid of an advisory committee. How were these people selected? Were there meetings or hearing to select the members? The "Public-At-Large" position should be filled by a neutral citizen, not a member of industry, groups like the Sierra Club or regulators.
See Department response to 1.

PARTICIPATION/COMMENT OPPORTUNITIES ON PROPOSED RULES

4. S1, S3

Notice of this hearing was not published in local papers (Eugene-Springfield).
The Department has the receipt of publication from the Eugene-Springfield Register

Guard, which can be inspected upon request.

5.

M5, S3, M8

Public Hearings should be held in the evening.

In selecting public hearings, the Department attempts to select a time that will be convenient for the greatest number of interested persons who are most directly affected by the action being considered. For the proposed rules under consideration, this was determined to be the sources who will be regulated under the new federal operating permit program provisions, so the hearings were scheduled during the business day. Since the hearings were scheduled only for the purpose of receiving testimony that would become part of the public record, it was not felt that interested persons unable to attend would be deprived of access to information. Public comments were also accepted in writing from May 17 through July 9, 1993. In evaluating public testimony, the Department gives equal weight to both oral and written comments.

6.

M2

The rule package presented by the DEQ is a long and complicated set of documents. It has been difficult to digest the rule package in the short time allotted for public comments.

The Oregon Revised Statutes [ORS 183.355(1)(b)] require the Department to provide 15 days prior notice of a rulemaking in the Secretary of State's Bulletin. The Code of Federal Regulations [CFR 51.102(d)] require a minimum 30-day notice prior to a public hearing for any state implementation plan revision, which includes rules. Due to the complexity of this rule package, the Department worked extensively with a diverse Advisory Committee and allowed for a 46-day public comment period. The time restraints for submitting the program to the EPA on November 15, 1993 have required the Department to limit the period to 46 days in order to leave enough time for adoption of the rules by the Commission and preparation of the submittal package.

DEVELOPMENT OF FINAL RULES AND RELATED ACTIVITIES, INCLUDING PARTICIPATION/COMMENT OPPORTUNITIES

7.

M10

Will industry be allowed to assist in the development of the HAP rules and standards? Particular concern are test methods and control technology.

Future hazardous air pollutant rulemaking, including rules establishing control standards or test methods, will include input from the regulated community and the public, as it has in this rulemaking. The Department believes that Advisory Committee members provide valuable assistance in finding balances resolutions to

difficult regulatory and technical issues. Public review and comment on proposed rules provide another avenue for interested parties to give the Department important information which can be included in the rules ultimately adopted.

8. M2, M3, M10

Enhanced monitoring rules are not included in this packet. Commentor would like the opportunity to participate in the development and/or review of these rules.

The enhanced monitoring regulations have not yet been promulgated by the EPA. After promulgation by the EPA, the Department will review the EPA regulations, with consideration of existing rules, and propose enhanced monitoring rules to the Environmental Quality Commission for adoption. The Department will work closely with the current Industrial Source Control Advisory Committee on the proposed enhanced monitoring rules. A public notice period and public hearings will be provided before adoption. The Department will be accepting comment on the enhanced monitoring rules at that time and encourages all interested parties to submit comments then. The Department proposes no change to the rule.

a. P24

Will the regulated community have an opportunity to comment on proposed source permit application forms prior to being released in final form? What will the public review process entail?

The Department is currently developing application and reporting forms that will be used in the federal operating permit program. The Department will involve selected members of the regulated community to comment on those forms. The forms are not part of the rules and will not be placed on public notice. The Department proposes no change to the rule.

9. S1

The Department and the Commission should not adopt new EPA rules or guidelines without public notice and hearing, and should consider circumstances in Oregon that may make the EPA approach insufficient for Oregon. The rules should set forth a process for amending the rules which ensures that local and state conditions will be a factor in any new rules.

The Environmental Quality Commission (EQC) cannot adopt permanent rules without public notice and hearing [ORS 468.020(2)]. The Department can review the sufficiency of the EPA rules as they apply to localities in Oregon without needing a special process specified in the rules, and can propose more stringent requirements if needed. Department rules must be at least as stringent as the EPA regulations, and may, in some instances, be more stringent. The Department proposes no change to the rule.

10. S1, P30, P31

There should be a process when amending future rules which ensures that state and

local conditions are taken into consideration and then rules can be written more stringently than federal rules, if necessary.

See Department response to 9.

11. S1
Some current regulations promulgated by the EPA are being challenged in court. During the development of one rule, even the EPA's general counsel agreed that it did not comply with the intent of the federal act. It is likely that the EPA will need to rewrite all or part of the operating permit regulations, which would require state programs to be rewritten if states simply opt to meet the minimum EPA requirements. The Department should ensure that its rules at least meet the intent of the federal act and propose rules stronger than the EPA's where appropriate.
If the EPA amends the Part 70 regulations, the Department will examine the EPA's amendments with regard to Oregon's rules. If changes are required, the Department will draft rule revisions and propose them for adoption to the Commission. Public notice and hearings are required for all proposed rules. The Department must ensure that its rules meet the minimum federal requirements in order to obtain EPA approval of the federal operating permit program. The Department will maintain areas in the existing permitting program that are more stringent than the EPA requirements. The Department proposes no change to the rule.
12. P2, PN1
Exceeding federal requirements makes Oregon's program more difficult for business.
a.
Subjective administrative hurdles rather than clear objectives make the program more difficult to administer effectively.
See Department response to 14.
13. M2, M3, M10
Federal rules are stringent enough: no need for more stringent state rules. Rules that do exceed federal minimums should be identified.
See Department response to 14.
a. P24
The DEQ should differentiate between state and federal requirements in the final regulations, perhaps using underlining or different font styles. This also should be utilized in guidance.
The Department has stated in the rule discussion document and the rules themselves, which rules are state requirements and which rules are federal requirements. The rules which make these statements are OAR 340-28-220, OAR 340-28-1600, OAR 340-28-900, and OAR 340-28-2100. The Department proposes no change to the rule.

b. M10
Many Oregon industries compete on a national basis. This necessitates knowing what portions of the proposal are federally mandated and what portions are State requirements.

All existing rules that are in the EPA-approved State Implementation Plan (SIP) are federally enforceable. Only those rules which are not in the SIP are state-only enforceable. Each permit will contain terms and conditions which are specified as being federally or state enforceable. All existing rules still apply to federal operating permit program sources except for the procedural rules of Division 14. As the discussion document states, the Part 70 federal regulations have been adopted verbatim except where they were in conflict with the existing state rules. In these instances, the existing state rules were used instead of the federal regulations. Each permit will contain terms and conditions which are specified as being federally or state enforceable. The Department proposes no change to the rule.

14.

M1, M4, M5, M6, M7, M13, S1, S2, P4, P8, P14, P16, P17, P27, P30, P31
Proposed rules should not be less stringent than current rules. Past air quality successes should not be taken for granted. Strong regulations will allow growth in marginal or non-compliance areas. Air quality and pollution varies by location so it is a state's right to set stricter standards than federal requirements. Federal rules are not sufficiently strong enough to provide enough control.

The federal preamble to the Part 70 regulations stresses the following:

- *"Nothing in Title V or the Act allows sources to violate applicable requirements."*
- *"It bears repeating that Title V permitting cannot relax any applicable requirements, including those contained in the SIP."*
- *"The Title V permit program is designed to complement SIPs in achieving improved air quality management across the country." and*
- *"Of course, the permit must also include the limitations with which each emissions unit must comply under any applicable requirements and must continue to ensure compliance with all applicable requirements, including the SIP."*

The Department has followed these instructions from the EPA in developing its federal operating permit program. ORS 468A.310(2) states "The commission shall adopt rules to implement the federal operating permit program. In implementing Title V for major sources, the commission and the department may take only those actions required to obtain the administrator's approval and to implement the federal operating permit program and other requirements of the Clean Air Act

unless the commission finds there is a scientifically defensible need for additional actions necessary to protect the public health or environment." ORS 468A.325 also states "Nothing in ORS 468A.040, 468A.300 to 468A.320 or this section shall require the commission or department to make less stringent any existing element of the state's air pollution control program." The language from the federal preamble and the language from ORS 468A.300 through 468A.330 have been the guiding principles that the Department has used in drafting the federal operating permit program rules. The proposed rules do not backslide from the existing rules.

The Department has exceeded the federal minimum requirements where the existing program already does so. Elements that are currently more stringent than what the federal rules require have been retained in the new program. The Department has deleted areas of the Part 70 regulations that are less stringent than the existing Oregon Administrative Regulations (OARs), and has added the applicable OARs. The Department has tried to clearly state the requirements of the federal operating permit program in the proposed rules in order to make the program easier to implement. The Department proposes no change to the rule.

15. M12
New regulatory programs should look to how other regulatory efforts, e.g., SARA and community right-to-know, impact businesses with an eye toward streamlining the process. Such efforts will prevent unnecessary expenses which are ultimately passed on to the consumer.
The Department has provided an option to owners or operators of federal operating permit program sources in the permit application to propose consolidation of reporting requirements wherever possible. The Department realizes that some reporting requirements for air quality may be redundant in addition to the reporting required by other media. The Department hopes that this option will relieve some of the burden of reporting while still requiring adequate information to determine compliance with the permit.

16. M9, P12, P14
No level of air pollution is safe. Recent scientific studies have shown adverse health effects below levels currently considered safe. When establishing air quality controls remember that a number of people have breathing problems, e.g., asthma and bronchitis, and that lung disease is the third leading cause of death. These respiratory effects also create adverse financial impacts for individuals and business. The DEQ's objective should be to reduce overall industrial air pollution rather than to broker current or increased levels.
The new rules propose permitting procedures. Air pollution "control" rules are contained in existing Department rules or in rules that will be proposed in the future. The Department proposes no change to the existing rules.

17. P12
Modeling should take into account worst case conditions of pre-existing air pollution when evaluating the impact of a new source.
When modeling is done for an increase of emissions greater than the significant emission rate, background concentration of existing air pollution specific to the area is taken into account. The Department proposes no change to the existing rules.
18. S3
Rules should address volatile organic compound emissions from all sources, particularly where corrections are relatively attainable and not too expensive, e.g., barge loading of gasoline in the Portland area and Stage II vapor recovery equipment.
Through a separate action, the Department is already working on a barge loading rule. Stage II rules are in place.
19. S4
When air quality guidelines are developed, attention should be given to pollution activities in the entire community, not just industry.
The Department addresses relevant sources of pollution when developing state implementation plans to bring nonattainment areas back into compliance and to ensure that areas with clean air do not undergo significant deterioration. The Department has implemented strategies to control emissions from a variety of sources, for example, wood stoves, automobiles, burning of forest slash, field burning, commercial and residential open burning, petroleum based fuels, gas stations, indirect sources of pollution such as highways and parking facilities, sewage treatment plants, grain elevators and crematories. Also see Department response to 21.
20. M12
Industry is not the only contributor to pollution. Nonpoint sources create more of the pollution problem and should be addressed as well.
See Department response to 19.
21. S4
If the public is going to benefit from the program, then all should share in the cost of the program and not just industrial sources. Otherwise the employment base is threatened.
The federal rules have mandated that the permit fee provisions of Title V will require sources to pay the costs of developing and implementing the permit program. To the extent that the fees are based on actual emission levels, the fees

will create an incentive for sources to reduce emissions.

22. P5
The state rule should incorporate the same exemptions for non-major sources as the federal permit rules, unless compelling reasons are identified for changing them. If Ecology considers eliminating some exemptions that are in the proposed rules, then those changes should be sent out for further public comment. This would allow affected parties to evaluate the changes.
The federal operating permit program applies to major sources as defined by OAR 340-28-110(56)(b). Sources that are not required to obtain federal operating permits will continue to be permitted under the existing Air Contaminant Discharge Permit (ACDP) program. The existing program for minor sources will not change because of the federal operating permit program. The Department proposes no change to the rule.
23. P5
Administration of Title V operating permits on Indian Reservations is to be performed by US EPA Region IX.
The commentor is partially correct. Major sources on Indian lands will be permitted by either the Indian governing body whose land is affected or by the EPA. The Department's rules will not apply to these sources. The Department proposes no change to the rule .
24. P29
Several definitions and other provisions of the New Source Review Rules have not been updated to remedy problems identified by the EPA, e.g, definition of major modification.
See Department response to 78.

IMPLEMENTATION OF TITLE V PERMITTING AND RELATED ISSUES

25. P24
Will there be workshops for industry to review final requirements prior to permit application submittal deadlines?
See Department response to 26.
26. P24
The DEQ should prepare an Operating Permit/Air Toxic Application Guidance Manual, updated annually, to aid the regulated community in understanding the complexities of the new permitting program.
The Department is currently preparing "user-friendly" guidance for sources that will

help in the federal operating permit program process. The source guidance will be part of the program submittal to the EPA in November. The Department realizes the need for such guidance in order to streamline the reviewing process. Once guidance is established, the Department will hold workshops throughout the state.

27.

P24

Does the Department want existing, permitted facilities to resubmit information and reports that were submitted during the original permit review process or subsequent permit renewals? Sources should not have to resubmit information which the DEQ already has on file.

The Department agrees that information that has already been submitted should not have to be resubmitted for a federal operating permit application. Each source that proposes to use information already submitted must verify that the Department does indeed have that information on file. Information that is cross-referenced and not resubmitted to the Department must be current and clear with respect to information required in the permit application. Such might be the case where a source is seeking to update its Title V permit based on the same information used to obtain an NSR permit or where a source is seeking renewal of its Title V permit and no change in source operation or in the applicable requirements has occurred.

28.

P24

The DEQ will begin to require submittal of Title V permit applications by February 1, 1994. If the effective date of the State's program is November 15, 1994, it runs counter to 40 CFR 70, which stipulates that all affected sources submit permit applications within one year of the EPA's approval of the State program. This provision protects sources from having to revise permit applications in midstream based on the EPA modification to the State's proposed program. In any case, the application deadline for municipal waste combustors should be no sooner than one year after the EPA approves Oregon's program.

The Department plans to call in applications for a pilot group of federal operating permit program sources at the beginning of 1994. This handful of sources will work with the Department to streamline the permitting process, making changes to the forms if necessary. Some of the forms will probably change based on the pilot group project.

The Department has already been notified by owners or operators interested in volunteering to be part of the pilot group, and is currently developing the schedule for calling in applications for federal operating permit program sources. In order for the Department to issue the first third of the permits by November 15, 1995, it needs to require submittal of those applications before the EPA approval date. The Department will consider Ogden Martin Systems of Marion, Inc.'s request to be called in one year after the EPA approves the program.

The Department has involved the EPA in the review process of all proposed rules

since April, 1993. Based on comments from the EPA, the Department has been revising the rules in areas where approval of the program would be jeopardized. The Department expects that the submitted program will meet the EPA approval criteria. Accordingly, significant revisions in source applications should not be necessary.

29. P24
Will a Title V source have to pay double fees for pollutants currently regulated with PSEs which are also regulated under Division 32, e.g., NO_x?
These rules do not contain permanent fee provisions. Fee rules will be proposed to the Commission in the fall. (The Department does not intend that double fees be assessed.)
30. M10
Is there going to be a separate permit for HAPs or will all emissions be combined into one permit?
One federal operating permit will contain all requirements for all regulated air pollutants for a source.
31. M10
Oregon industries need assurances that when control devices are selected and approved by the DEQ they are sufficient for a predetermined time frame to allow for amortization and depreciation of installation costs.
The proposed rule package contains only procedural requirements for federal operating permit program sources. It does not contain any emission standards or pollution control requirements. Control standards will be established in the future for hazardous air pollutant sources (Maximum Available Control Technology). The Department proposes no change to the rule.
32. P1
Rules must be applied across a spectrum of sources within the State of Oregon based upon their real potential to decrease air quality. This means that the majority of rules should focus upon major sources. As written, some of the requirements that apply to major sources also apply to sources which are non-major, and therefore require only an ACDP. Specifically I am referring to the monitoring, recordkeeping, and reporting requirements.
Synthetic minor sources are major sources except for the federally enforceable limits on potential to emit. The example mentioned (reporting and monitoring for synthetic minors) is required by the EPA. The requirements of the federal operating permit program do not apply to other minor sources. Non-major sources or area sources taken in the aggregate can cause considerable degradation of air quality. The EPA will be developing emission limitations for many of these non-major

sources which the Department will adopt. However, the Department is proposing to temporarily defer permitting of non-major sources in order to promote an orderly phase-in of the program. All defined sources will be required to comply with any applicable emissions limitations and may be required to submit permit applications by the end of the defense period unless they are sources or source categories that receive a continued exemption. The Department proposes no change to the rule.

33.

P2, PN1

Overly complex procedures may penalize or discourage conscientious companies who want to do the right thing. Rules should provide a clear direction for dealing with insignificant changes, off-permit changes, minor changes to permits, for example.

The Department feels that it has presented as clear a picture as possible for sources that are subject to the federal operating permit program, especially in regard to insignificant activities, off-permit changes, and minor permit modifications. Insignificant activities and off-permit changes are new elements that currently do not exist in the Air Contaminant Discharge Permit program. Owners or operators are not required to use these procedures; they are federal elements designed to provide operating flexibility to the owner or operator without jeopardizing air quality. The Department will provide guidance for implementing these and other new elements of the new program.

The Department has always tried to work with both the public and owners or operators regarding questions about the existing program. Industrial representatives on the Advisory Committee suggested that the Department spend less time with owners or operators who provide inadequate information rather than use scarce resources. The Department is following this recommendation to the extent that the new federal program requires owners or operators to take more responsibility for meeting all requirements.

34.

M2, M3, M10

Requirements to submit permit applications in an electronic format are premature because format is not yet specified.

In order to streamline the permit processing procedures, the Department is developing all application forms and reporting forms in electronic format as well as in hard copies. The exact format is currently under development and is not required to be in the rules. Formats will be specified in application packets. The Department feels that it is critical to obtain the data on a disk rather than inputting it by hand from a written form. It is to the Department's best interest to develop electronic formats that will work and are easy to use. The Department realizes that smaller companies may not have access to a computer or compatible software but feels it must require submittals of permit applications in some type of

electronic format in order to streamline the review process. The Department proposes no change to the rule.

35. P2, P7, P22
The reporting requirement is extensive, e.g., 6 copies of permit application plus electronic format, 4 copies of semiannual monitoring reports. [340-28-2120(1)(b)]
See Department response to 36.

36. M2, M3, M10
It is appropriate to require at least one hard copy with the electronic permit application submittal; however, the requirement for six hard copies is excessive. [340-28-2120(1)(b)]
The Department is requesting six hard copies of the applications for the following locations: a file copy for headquarters, a file copy for the region, a working copy for the permit writer, a copy for the EPA (federally required), a copy for the Forest Service or other reviewing agencies, and a copy for viewing by public near the source.
The Department will evaluate database systems which will work in conjunction with the permit application forms to calculate emissions for permits. ORS 468A.310(3)(a) requires the Department to provide streamlined procedures for expeditious review of permit actions in accordance with the Clean Air Act Amendments. Rather than input all the data from a hardcopy, it would be more efficient for the Department to be able to read a disk with the information already on it. The Department proposes no change to the rule.

37. P22
The requirement to submit applications on both written and electronic forms is overly burdensome and, based on experience with SARA Title III 313 reports, may not always work and will be cumbersome to use. [340-28-2120(1)(b)]
See Department response to 34.

COMPLEX, BURDENSOME NATURE OF PROPOSED RULES

38.
The regulations are complex. The focus should be on simplicity, not added unnecessary complexity.
See Department response to 42.

39. M2, M3, M10
Heavy use of acronyms makes comprehension difficult.
All acronyms are spelled out and defined in the definition section. In order to be

consistent and to make it easier for people reading the rules, the Department decided to use acronyms throughout the rules and define them only once in the definition section. Acronyms are conventionally used terminology that have certain meanings, and if an acronym is not used, another meaning may be suggested. The Department proposes no change to the rule.

40. M3
References to Federal statute and rules are made without an indication of what is contained within that rule. Rules should be written with enough explanation to stand on their own.
Department rules traditionally reference Federal statutes and rules. The proposed rules are complex and comprehensive and references are necessary. The Department will draft guidance documents to assist sources in complying with the rules. The Department proposes no change to the rule.
41. M3, M10
Limit continual referencing back to other sections of same standard.
Cross-referencing to other rule sections is a standard method of rule drafting. It has been used in these rules only where necessary to provide clarity and "pointers" for the reader. The Department proposes no change to the rule.
42. P1, M10
Rules should be written so as to be understandable without requiring an attorney or consultant.
In drafting the proposed rules Department staff started with the specific language of federally required rules adopted by the EPA and amended where appropriate to apply to Oregon. Existing Department rules were integrated into the rule package. The Department has attempted to draft understandable rules, and where specific public comments were made about understandability, the rules will be clarified. The Department appreciates that these rules are complex and will develop guidance and forms for owners or operators of federal operating permit program sources to use. The Department proposes no change to the rule.

COMMENTS SPECIFIC TO DIVISION 28

STATIONARY SOURCE AIR POLLUTION CONTROL AND PERMITTING PROCEDURES

DEFINITIONS (340-28-110)

43. P2, P3, P25, P26
340-28-110(2), Including emissions from insignificant activities within the definition of "actual emissions" would require sources to quantify emissions from insignificant

activities, thereby defeating the primary purpose of categorizing certain emissions as insignificant. See also P25 comments on Insignificant Activities. Suggest rule be revised to read:

"Actual emissions" means the mass rate of emissions of a pollutant from an emissions source, except emissions from insignificant activities.

See Department response to 44.

44. P2, P3, P25, P26

340-28-110(3), See P25 note to the definition of "actual emissions." Suggest rule be revised to read:

"Actual emissions for fee purposes" means the actual rate of emissions in tons per year of any regulated air pollutant (for presumptive fee calculation), except emissions from insignificant activities, emitted from a federal operating permit program source over the preceding calendar year or any other period determined by the Department to be representative of normal source operation and consistent with the fee schedule. *The Department does not agree with these comments, because the term "actual emissions" has significant program and fee relationships in contrast to "permitted emissions" which are provided for in the PSEL concept. The Department has differentiated between the three different types of insignificant activities; categorically insignificant activities, insignificant mixture usage, and aggregate insignificant emissions in both 340-28-110 and 340-28-1060. In summary, categorically insignificant activities will be exempt from the determination of the PSEL and assessed fees, while both insignificant mixture usage and aggregate insignificant emission levels will be included in both PSEL and fee calculations. The source will retain the option of using actual emissions as default values in these calculations, with the alternative being the respective aggregate insignificant emission levels contained in the source's permit.*

45. P26, P2

340-28-110(3), Delete the phrase "regulated pollutant (for presumptive fee calculation)" which is undefined in your proposal and replace it with "pollutant subject to interim emission fees under OAR 340-28-2420.

The Department mistakenly omitted the definition of "regulated pollutant (for presumptive fee calculation)" and has added it to OAR 340-28-110.

46. P2, P3, P25, P26

340-28-110(6), Including emissions from insignificant mixture usage within the aggregate limits will require quantification of those emissions, which eviscerates the primary reason for designating insignificant mixture usage. Suggest rule be revised to read:

"Aggregate insignificant emissions" means the annual actual emissions of any regulated air pollutant, for any federal operating permit major source, ~~including the~~

~~usage of exempt mixtures~~, up to the lowest of the following applicable level:

- (a) One ton for each criteria pollutant;
- (b) 500 pounds for PM₁₀ in a PM₁₀ nonattainment area;
- (c) The lesser of the amount established in OAR 340-32-4500, Table 3, or 1,000 pounds for each Hazardous Air Pollutant;
- (d) An aggregate of 5,000 pounds for all Hazardous Air Pollutants.

The Department has developed the three designations of insignificant activities: categorically insignificant activities, insignificant mixture usage, and aggregate insignificant emissions with the input, guidance and consensus of the Advisory Committee. The categorically insignificant activities will remain exempt from the permit application requirements and any aggregate insignificant emission level determination. As a source could exceed the established aggregate insignificant emission levels with use of large volumes of chemical mixtures, the Department cannot designate this activity as insignificant.

47. P5

340-28-110(6), Definition of "aggregate insignificant emissions" needs to be expanded to include the non-criteria pollutants regulated under Section 111 of the Act, the ozone-depleting substances regulated under Title VI of the Act, and pollutants regulated under Section 112(r) of the Act (i.e., all regulated pollutants as that term is defined in OAR 340-28-110(76)).

The definition of "aggregate insignificant emissions" has been amended to mean the actual annual emissions of any regulated air pollutant as defined in OAR 340-28-110, thereby incorporating the referenced additional pollutants in this comment.

48. P29

340-28-110(6), As currently defined, could require any owner or operator of a source which takes credit for any insignificant emission unit to prove that the aggregate is less than the defined amount. In some instances this would require additional testing, which would cause a significant expenditure of energy without environmental benefit. Suggest changing the definition in ways that strike a balance between the effort the owner or operator makes to quantify these emissions and the source's ability to have a relatively large amount of aggregate emissions. If the aggregate limits are retained, then the limits should be revised: e.g., 10 tons per year combined for NO_x and SO₂, 3 tons per year of PM₁₀ (unless in a nonattainment area), and 150 pounds per year of lead.

The Department's insignificant activity provisions have been constructed after discussion and consensus of the Industrial Source Control Advisory Committee. These provisions must simultaneously provide flexibility and latitude to the industrial source, while preserving the Department's obligation to protect air quality. The Department is confident that the insignificant activity provisions in these rules will accomplish both of these objectives. Additionally, the Department

is committed to a reconsideration of this issue after the initial years of program implementation.

49. P6
340-28-110(7), The definition of air contaminants is vague and inclusive and should be tied to more specific regulated or criteria pollutants.
See Department response to 50.
50. P24
340-28-110(7), Too broad. Suggest: delete "pollen" and add after "combination," "thereof that is considered a criteria pollutant or is regulated pursuant to Title III Section 112 of the 1990 Clean Air Act Amendments."
The definition of "air contaminant" is from Oregon Revised Statute 468A.050(2). The Department proposes no change to the existing rule.
51. P5
340-28-110(9), Definition should be revised to match federal definition in 40 CFR 70.2. The DEQ should make it clear that sources are to identify terms in their permit applications. Sources should be allowed to distinguish between provisions that constitute applicable requirements and, separately, all other provisions the Department wishes to include in the permit. Also, the definition does not explicitly address mobile source considerations that might indirectly relate to an affected unit.
Two subsections have been added to the federal definition of "applicable requirement": OAR 340-28-110(9)(b) and (c). Subsection (b) has been added because there are many applicable requirements that have been adopted by the Environmental Quality Commission into the Oregon State Implementation Plan (SIP) but have not yet been approved by the EPA. The federal preamble to the Part 70 regulations stresses that Title V permitting cannot relax any applicable requirements, including those contained in the SIP. Subsection (c) has been added because ORS 468A.325 states "Nothing in ORS 468A.040, 468A.300 to 468A.320 or this section shall require the commission or department to make less stringent any existing element of the state's air pollution control program." Terms and conditions in an existing Air Contaminant Discharge Permit for a federal operating permit program source will continue to apply and will be carried forward into a federal operating permit. Each term and condition in a permit will stem from a state or federal applicable requirement. All permit terms and conditions will specify whether they are federally or state enforceable. State enforceable terms and conditions will stem from rules that are not contained in the SIP. The EPA will not review terms and conditions that are state enforceable: therefore, the timeliness of processing permit changes related to state enforceable requirements will not be impacted at all. The

Department proposes no change to the rule.

52.

P26, P2

340-28-110(9)(c), Just because a term or condition appears in an existing ACDP does not make it an applicable requirement. For example, some permit conditions in existing ACDP permits are based on rules that will change as a result of this rulemaking and related rulemakings. These permit conditions should not be considered applicable requirements. The DEQ must make it clear that this paragraph includes only those conditions that are based on current rules. Neither the FCAA nor the EPA require existing permit conditions in state operating permits to become applicable requirements for federal operating permit program sources. This proposal is more stringent than required.

The Department has proposed that the federal operating permit program sources submit copies of their existing Air Contaminant Discharge Permits (ACDP) as part of the federal operating permit application. This will ensure that a source maintains compliance with its existing ACDP while the Department is processing the federal operating permit.

ORS 468A.325 states, "Nothing in ORS 468A.040, 468A.300 to 468A.320 or this section shall require the commission or department to make less stringent any existing element of the state's air pollution control program." Therefore, the Department has the authority to carry over all existing ACDP terms and conditions, and the proposal is not more stringent than required. The Department agrees that some permit terms and conditions will need to be changed because of changes in rules (i.e., Highest and Best Practicable Treatment and Control), and will act accordingly. The Department proposes no change to the rule.

53.

P29

340-28-110(9)(c), In the definition of "applicable requirement" the word "issued" should be added before the word "before" in subsections (c) and (d).

The Department agrees that the word "issued" should be added and has revised OAR 340-28-110(9) accordingly.

54.

P5

340-28-110(9)(j), Proposed rule should be amended to include language from (m). After "Act" add:

unless the Administrator has determined that such requirements need not be contained in a federal operating permit.

See Department response to 209.

55.

P6, P24

In the "baseline concentration" definition, 340-28-110(11)(a), (b), there is a discrepancy in years used for establishing ambient concentration levels for SO₂, NO_x,

and total suspended particulate. The definition should use the single calendar year, 1988.

The definition of "baseline concentration" will be moved to Division 31, Ambient Air Quality Standards in the July 9, 1993 proposed rulemaking. It applies to Prevention of Significant Deterioration, OAR 340-31-100. There are two different years specified, 1978 for sulfur dioxide and total suspended particulate and 1988 for nitrogen oxides because those are the years that the federal PSD increments for those pollutants were established. The Department proposes no change to the rule.

56. P24

340-28-110(13), For a facility not in operation during these dates and therefore unable to calculate "actual emissions," suggest changing the word "prior" to "different". Inconsistent dates are also noted.

The definition of "Baseline period" applies to the Plant Site Emission Limit rules, OAR 340-28-1000 through 340-28-1050. Baseline period means 1977 or 1978 or a prior period that is more representative of normal source operation. If a source did not exist in the baseline period of 1977 or 1978, it is considered to have zero emissions during the baseline period. The prior period applies only to sources that existed in 1977 or 1978 and not to sources that did not exist. Therefore, since Ogden Martin Systems of Marion, Inc. did not exist during 1977 or 1978, it has no baseline period, as all other sources that did not exist at this time. The Department proposes no change to the rule.

57. P6

In the "baseline period" definition, 340-28-110(13), there is a discrepancy in the year establishing the baseline: 1977 or 1978. The baseline concentration definition is also inconsistent. The definition should use same baseline year, e.g., 1988.

See Department response to 56.

58. P29

340-28-110(16), The definition of "categorically insignificant activity" should be revised to clarify that an activity is insignificant only if it is not in the same industrial grouping as other pollutant emitting activities at the facility.

The Department does not agree with this comment, and believes that categorically insignificant activities should not be dependant on the industrial grouping of the source, but rather should be categorically insignificant across all types of industrial source designations. Therefore, the definition has not been amended to include this suggested change.

59. P2, P3, P25, P26

340-28-110(16), See P25 comments on Insignificant Activities. Suggest rule be revised to read:

"Categorically insignificant activity" means an activity not included in 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 the **Standard Industrial Classification Manual** (U.S. Office of Management and Budget, 1987), including, but not limited to, on-site motor vehicle operation at sources not associated with large amounts of fugitive road dust; natural gas and distillate oil space heating rated at less than 10 million British thermal units/hour; office activities; food service activities; janitorial activities; all personal to include this

suggested change.

59. P2, P3, P25, P26
340-28-110(16), See P25 comments on Insignificant Activities. Suggest rule be revised to read:

"Categorically insignificant activity" means an activity not included in 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 the **Standard Industrial Classification Manual** (U.S. Office of Management and Budget, 1987), including, **but not limited to**, on-site motor vehicle operation at sources not associated with large amounts of fugitive road dust; natural gas and distillate oil space heating rated at less than 10 million British thermal units/hour; office activities; food service activities; janitorial activities; ~~all~~ personal care activities; groundskeeping activities; ~~or~~ **and** on-site laundry activities. The Department may designate additional activities as categorically insignificant activities at individual sources if the Department determines that the designation would not interfere with the determination or imposition of any applicable requirement or the calculation of fees.

The Department carefully considered all proposed categorically insignificant activities with particular attention to potential adverse air quality impacts, and ease of implementation. The list of categorically insignificant activities has been endorsed by the Industrial Source Control Advisory Committee and the EPA. The Department intends to revisit the issue of insignificant activities after implementing both the pilot and initial year of major source permitting.

60.

S1

Commentor opposes broad definition of insignificant activities because of potential negative impacts on air quality.

The concept of insignificant activities has been incorporated in these rules to allow the commitment of both Departmental and industrial resources to sources of potential air quality concern. The three different types of insignificant activity (categorically insignificant activity, insignificant mixture usage, and aggregate insignificant emissions) have been constructed with the input, guidance, and consensus of the Industrial Source Control Advisory Committee. Furthermore, as insignificant activities are not exempt from compliance with all applicable requirements, the Department is confident that negative air quality impacts associated with insignificant activities will be avoided.

61.

P5, P23, P25, P2, P3, P26

340-28-110(16), "Categorically insignificant activities" is defined generally, but specific examples are provided. So that the definition is not limited to the specific examples given, suggest that the word "including" in the definition should be replaced with the phrase "including, but not limited to." The rule should also clarify the Department's authority to designate additional activities as categorically insignificant.

The EPA's initial review of the proposed definition of categorically insignificant activity clearly stated that the list of categorically insignificant activities must be

complete and definitive, and cannot be subject to addition or revision at some later date based on unstated or unqualified criteria. Therefore, the proposed definition will not be amended to include the phrase, "including, but not limited to."

62.

P5

340-28-110(16), The definition should include the concept of insignificant emission levels. This would include trace emissions of regulated pollutants from an emissions unit that is significant for a different pollutant.

In addition to the concept of categorically insignificant activities, the Department will provide for both insignificant mixture usage and aggregate insignificant emissions of both criteria and hazardous air pollutants. In addition, the Department will provide for insignificant changes to both significant and insignificant activities. These provisions should provide the latitude and flexibility sought by this commentor.

63.

P5, P21, P23, P24

The following items should be added to the list of "categorically insignificant activity": [all analytical laboratories unless that is the major industrial group; facility maintenance activities (including reroofing, painting and remodeling, paving and stripping of parking lots, etc.); use of municipal water; emergency response; vents on covered storage containers containing less than 20,000 gallons; use of fuel in motorized material handling equipment; firing of ceramic materials in a kiln, equipment handling/instrument calibration activities, personal care activities (including medical services); research and development activities performed in laboratories; industrial wastewater treatment activities P21]; [emergency backup generators, on-site motor fuel operated equipment, water heaters and boilers used for space heating. A size limit similar to that proposed for oil and natural gas space heaters may be necessary P23][pilot plants of a certain size, smokeless gas flares, bulk mineral product handling facilities (except asbestos) and portable rock crushers with a production rate of less than 200 tons per hour, equipment used exclusively to pack pharmaceuticals and cosmetics, processes used for curing rubber and plastic products, die casting machines, powder coating operations with some restrictions on types of materials emitted, stacks or vents to prevent escape of sewer gases through plumbing traps, ethylene oxide sterilizing chambers (subject to conditions), grain handling, storage and drying facilities, office activities, for example. P5][production of hot water for on-site personal use not related to any industrial process, facility/site fabrication operations for maintenance and repair, maintenance of APC equipment, use of safety devices including but not limited to fire extinguishers, P24]

The Department carefully considered all proposed categorically insignificant activities with particular attention to potential adverse air quality impacts, and ease of implementation, and has amended the originally proposed list of categorically insignificant activities. The list of categorically insignificant activities has been

endorsed by the Industrial Source Control Advisory Committee and the EPA. The Department does not propose further additions at this time, but has made a commitment to revisit the issue of insignificant activities, with possible addition and amendment to the initial list, after completion of both the pilot permitting program and the initial year of permitting.

64. P26, P2
340-28-110(22), A "variation" is hardly a definition of "constant." This definition requires clarification, at least as to whether it includes down time in calculating the average process rate. A better definition would be "A process rate which is not varied by more than 25 per cent in 90 per cent of the process rate changes." Or alternatively, the rule could use the term "Constant Rate Process" defined as "A process in which 90 per cent of the changes in routine process rates are less than 25 per cent."
*The definition of "Constant Process Rate" is not part of this rulemaking. This definition is used in the interim fee rules.
Also see Department response to 313.*
65. P26, P2
340-28-110(24), The lack of a definition of "actual emission" combined with the use of the term "calculated emissions" could give rise to confusion when applied outside of the interim fee rules for which this definition was drafted. Delete "will adequately reflect calculated emissions and actual" and insert "measure".
See Department response to 313.
66. P26, P2
340-28-110(27), Delete "or EPA" as the EPA reviews proposed permits and not draft permits. See P26, P2 comment for OAR 340-28-2200(1)(a)(E).
The Department has designed the rules so that draft permits can be submitted to the EPA for review [OAR 340-28-2300(1)(a)]. In cases where no changes are made to the draft permit, the proposed permit would be exactly the same as the draft permit. Therefore, in order to streamline the permitting process, the Department hopes that the EPA will begin reviewing some draft permits during the 30 day public notice period. This would shorten permit processing time by potentially 30 days but would still give the EPA 45 days for review. The rules are structured to allow for this if the EPA can do the review in this way.
67. P26, P2
340-28-110(36)(a), Change the second sentence to read as follows:
"An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that ~~produces~~ or emits air pollutants."
This change will exclude processes that produce air pollutants that are, for example,

in solution or contained within vessel or piping. The Department need not be concerned with regulating activities that do not actually emit air pollutants.

The Department agrees with the commentor and has incorporated the suggested change into the definition of emissions unit.

68. P21

"Emission Unit" [340-28-110(36)] has been greatly clarified. However it does reference "regulated pollutant" and pollutants issued under section 112(b) of the Act. Given 340-28-110(76)(a)(F) should be essentially similar but not identical to section 112(b), this creates confusion. 340-28-110(76)(a)(F) should be deleted entirely.

The definition of emissions unit has been revised to clarify the confusion between the 112(b) list and the list under OAR 340-32-130. The definition now refers to regulated pollutants and the definition of regulated pollutant includes the list under OAR 340-32-130.

69. P23, P25, P2, P3, P26

340-28-110(38), Defining "event" as "any period of excess emissions" provides no guidance to permittees regarding when excess emission events must be reported under proposed OAR 340-28-1430(2). Suggest: (1) that 340-28-110(38) define an "excess emission event" as "all excess emissions that have a common fundamental cause and that occur during a single calendar day" and (2) that the reporting requirements set forth in 340-28-1430(2) be based on excess emission events.

The Department agrees with this comment and has changed the definition of "event" in OAR 340-28-110(38) to: "all excess emissions occurring during a single calendar day which arise from the same condition." This definition is consistent with the language used in the Stipulated and Final Order for Ash Grove Cement West, Inc., and describes the scope of the current rule.

This new definition will relieve the administrative burden to the Department and to industry of reporting and/or reviewing excess emissions. However, the Department will still retain discretion to enforce individual exceedances of any applicable standard (except where the affirmative defense provision applies).

70. P2, P3, P25, P26

340-28-110(38), See P25 comments on the Excess Emission Rule. Suggest rule be revised to read:

"Excess emission Event" means any period of all excess emissions that have a common fundamental cause and that occur during a single calendar day.

(Renumbered from OAR 340-20-355(1))

See Department response to 69.

71. P26, P2

340-28-110(41), What is an "application review report" for federal operating permit

program sources? If such a report exists, then once a permit is issued, the permit must contain all requirements. Delete the reference in this paragraph.

The Department originally included the application review report (similar to the Air Contaminant Discharge Permit application review report) as part of the federal operating permit because it was to contain the determination of nonapplicable requirements. Based on comments received from the EPA, the Department must include this determination in the permit itself, therefore eliminating the need to include the application review report as part of the permit. The Department has revised OAR 340-28-110(41) accordingly.

72.

P2

Deadlines are impractical, e.g., 340-28-110(48) "immediately"

The Department currently requires large sources to report events of excess emissions immediately (within one hour). The EPA would view a longer reporting period as a relaxation of existing rules. This practice will not change with the new federal operating permit program. The Department proposes no change to the rule at this time, but does intend to review the excess emissions rule more completely in the future.

73.

P23, P24, P25, P2, P3, P26

340-28-110(48), "Immediately," defined as "as soon as possible but in no case more than one hour after the beginning of the excess emission period." However, sources that are required to report excess emissions "immediately" under proposed 340-28-1430(2) may not have any reason to know, or may not be able to know, that excess emissions are occurring until well after one hour after they have begun. Suggest that "immediately" be defined as "as soon as possible but in no case more than one hour after the permittee knew or should have known that an excess emission event had begun." Four hours suggested by P24.

The Department has addressed this issue in the proposed rules by including a new provision in the Upsets and Breakdowns section of the rules (OAR 340-28-1430(2)). This provision allows for tailored reporting requirements in a source's operating permit. For example, the permit for a source with an 8-hour average standard may state that reporting is required as soon as possible, but in no case more than one hour following the 8-hour period during which averaging occurs. If no alternate reporting requirements are specified in the permit, the source must report immediately, or within one hour of the beginning of the excess emissions event. The Department believes that this satisfies the concern without adding a new burden of demonstrating on an incident by incident basis when the permittee knew of the excess emission.

74.

P2, P3, P25, P26

340-28-110(48), See P25 comments on the Excess Emission Rule. Suggest rule be

revised to read:

"Immediately" means as soon as reasonably possible but in no case more than one hour after the beginning of the permittee knew or should have known that an excess emission-period event had begun. (Renumbered from OAR 340-20-355(3))

See Department response to 72 and 73.

75. P2, P3, P25, P26

340-28-110(48A), Suggest rule be revised to read:

"Insignificant activity" means any activity or emission that is insignificant under sections (6) (aggregate insignificant emissions), (16) (categorically insignificant activity), or (50) (insignificant mixture usage) of this rule.

The Department has recognized the need to amend the initial definition of "insignificant activity" and had revised the definition of insignificant activity to provide more clarity, utility, and ease of compliance:

" Insignificant Activity" means an activity or emission that the DEQ has designated as categorically insignificant, insignificant mixture usage, or aggregately insignificant.

76. P2, P3, P25, P26

340-28-110(49), See P25 comments on Insignificant Change. Suggest rule be revised to read:

"Insignificant Change" means a change or modification or addition of an categorically insignificant activity or insignificant mixture usage which does not cause emissions to exceed the applicable aggregate insignificant emission levels, and that does not cause the activity to become significant and that satisfies the following paragraphs (a) through (d) of this section. In addition, "insignificant change" means any other change that does not increase the source's potential to emit and that satisfies paragraphs (a) through (d) of this section.

(a) The change does not invoke another result in the source becoming subject to additional applicable requirements not in the permit term or condition;

The Department has revised the rule language defining insignificant change, at 340-28-110 (49) to incorporate the intent of this and similar comments on the insignificant change provisions in these rules.

77. P23, P25, P2, P3, P26

340-28-110(49), Consistent with the federal rule, insignificant changes should be treated as off-permit changes that are not subject to the recordkeeping and reporting requirements that apply to other off-permit changes. Accordingly they should be included in the definition of off-permit changes, but should be specifically excluded from 340-28-2220(2)(c) and (d). Additional clarifications are needed:

a.

Insignificant change, defined as "a change or modification or addition of a

categorically insignificant activity or insignificant mixture usage which does not cause emissions to exceed the applicable aggregate insignificant emission levels...", does not appear to cover changes to activities that are insignificant because their emissions are under the aggregate insignificant emissions levels. This would effectively cause most changes to the vast majority of insignificant activities to be subject to recordkeeping and reporting obligations.

b.

Furthermore, the definition implies that changes to categorically insignificant activities are insignificant only if the change would not cause the source to exceed an aggregate emission level. In order to determine this, however, a source would have to estimate emissions from categorically insignificant activities. Requiring a source to estimate emissions from categorically insignificant activities would defeat the purpose of having categorically insignificant activities, would be contrary to the federal operating permit program rules (see 57 Fed. Reg. 32,273 (July 21, 1992)), and would be inconsistent with proposed OAR 340-28-2120(3)(c)(D).

c.

The definition does not include inconsequential changes to significant activities that do not increase potential to emit. Changes to regulated emissions units would be regarded as insignificant if they: (1) do not increase potential to emit, (2) do not invoke some applicable requirement to which the source was not already subject and (3) meet the other criteria for off-permit changes. Without such an exemption from the recordkeeping and reporting obligations for off-permit changes, sources will have no direction for when to report to the DEQ truly inconsequential changes to their significant emissions units.

d.

Paragraph (a) of the proposed definition of "insignificant change" would limit insignificant changes to changes that do "not invoke another applicable permit term or condition." Commentor is not certain what this criterion means or what it adds to the criteria set forth in paragraphs (b) through (d) of the definition. Based upon 40 CFR § 70.4(b)(12)(iii), it appears that changes that invoke an applicable requirement to which the source had not previously been subject must be recorded. Such changes, therefore, could not qualify as insignificant under the DEQ's proposed rules. If this is the point the DEQ is trying to address, the proposed rule should be revised to clarify this intent.

The Department agrees with this comment, and has proposed revised rule language which defines an insignificant change as an off-permit change, to either a significant or an insignificant activity. The change must not result in the redesignation from an insignificant to a significant activity, must not invoke an applicable requirement not included in the permit, and must not result in emission of regulated air pollutants not regulated by the source's permit.

Major modification and major source [340-28-110(55) and (56)]: renumbering these definitions without change potentially expands new source review (NSR) to include all Title III pollutants even though Federal law distinguishes between Title I sources and modifications subject to NSR and Title III.

"Major modification" still applies only to New Source Review and is not referenced in the federal operating permit program rules. "Major source" is defined separately for certain sections of the rules. The Department has not expanded the scope of the New Source Regulations in any way.

The New Source Review rules are not part of this rulemaking. The proposed rule package does not contain changes to the interim emission fee rules other than renumbering and added clarifications for federal operating permit program sources with respect to New Source Review. The New Source Review rules are addressed in the July 9, 1993 proposed rulemaking and will be heard at the October, 1993 Environmental Quality Commission Meeting. The Department proposes no change to the rule.

79. P25, P2, P3, P26
- 340-28-110(56)(a) defines a major source for purposes of new source review as a "source which emits, or has the potential to emit, any pollutant regulated under the Clean Air Act at a Significant Emission Rate." "Significant emission rate" is defined at 340-28-110(83) subsection (b), which provides, "For pollutants not listed above, the Department shall determine the rate that constitutes a significant emission rate." Together, these definitions subject HAP emissions to new source review under proposed OAR 340-28-1900 through 340-28-2000. The nonattainment provisions of the Clean Air Act apply only to criteria pollutants. See 42 U.S.C. § 7501(2). In addition, 42 U.S.C. § 7412(b)(6) expressly provides that the prevention of significant deterioration (PSD) provisions of the Act do not apply to HAPs. Because proposed OAR 340-28-1900 through 340-28-2000 are intended to implement the nonattainment and PSD provisions of the Clean Air Act, these provisions should expressly exclude HAPs.
- See Department response to 78.*

80. P2, P3, P25, P26
- 340-28-110(55), See P25 comments on HAP New Source Review. Suggest rule be revised to read:
- "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 (83))~~ for any pollutant subject to regulation under the Act listed in section (83) of this rule. This criteria also applies to any such pollutants not previously emitted by the source. Calculations of net emission increases shall 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 becomes subject to the New Source Review requirements, including the retrofit of required controls. (Renumbered from OAR 340-20-225(15))

See Department response to 78.

81. P2, P3, P25, P26
340-28-110(56), See P25 comments on HAP New Source Review. Suggest rule be revised to read:

"Major Source":

- (a) as used in OAR 340-28-1900 through 340-28-2000, New Source Review, means a stationary source which emits, or has the potential to emit, any pollutant ~~regulated under the Clean Air Act~~ **listed in section (83) of this rule** at a Significant Emission Rate, as defined in this rule. (Renumbered from OAR 340-20-225(16))

See Department response to 78.

82. P21
Oregon is reserving the right to expand the list of regulated HAPs beyond the Federal list, so the definition of major source [340-28-110(56)(A)(i)] should make it clear that definition applies only to Federal HAP sources.

OAR 340-28-112(56)(b)(A)(i) defines a major source under section 112 of the Act and states "any HAP which has been listed pursuant to section 112(b) of the Act." The hazardous air pollutants (HAPs) listed pursuant to section 112(b) of the Act are those listed by the EPA. The Department is reserving the right to add compounds to the Oregon list but cannot change the federal list of HAPs adopted pursuant to section 112(b). The Department has included a process in Division 32 for amending the list of hazardous air pollutants which requires a rigorous demonstration of adverse effect to the Commission before a chemical can be added to the list. If it is demonstrated that a chemical should be added to the list it will become a regulated pollutant and will be used in defining a major source of HAP. The Department proposes no change to the rule.

83. P1
340-28-110(56)(b)(B)(i) defines major source based on HAP emissions and referencing lesser quantity cutoffs; however, the definition in 340-32-120(5) does not reference lesser quantities.

The Department has included the provision for lower quantity cutoffs in the definitions of major source under Division 32 as suggested by the commentor.

84. P26, P2

340-28-110(56)(b), The phrase at the end ("or support the major industrial grouping") is not in the EPA rule and should be deleted. We believe that the EPA definition accomplishes the objective of the Department in assuring that all stationary sources at a facility are covered by a single permit. The EPA language "or any group of stationary sources that are located on one or more contiguous or adjacent properties" should suffice. This proposal is more stringent than required.

The EPA has stated in the federal preamble that "any equipment used to support the major activity at a site would also be considered as part of the same major source regardless of the 2-digit SIC code for that equipment." The Department has added "or supporting the major industrial grouping" to the definition for clarification. Many existing permits contain at least two, if not more, Standard Industrial Classification (SIC) codes which would not be considered to belong to a single major industrial grouping. Not including all sources at a facility would be a relaxation of the existing program; therefore, the rule is not more stringent than required. The Department proposes no change to the rule.

85.

P24

Propose additional definition for Municipal Waste Combustors (Add definition to Division 28 and 32): Municipal Waste Combustors or Combustion Units (MWC): means an incinerator which is operated or utilized for the combustion of solid waste for the purpose of recovering heat or energy, and which utilizes high temperature thermal destruction technologies.

Municipal waste combustor does not appear in the proposed federal rules. The definition of "municipal waste combustor" may be proposed for adoption in the July 9, 1993 proposed rulemaking which will be heard at the October, 1993 Environmental Quality Commission Meeting. The Department will propose the definition of "municipal waste combustor" that is used in the New Source Performance Standard.

The Department has added a definition for solid waste incineration unit to Division 32 because these units are exempted from some provisions of Division 32. The NSPS to be developed under Section 129 of the Act will apply to solid waste incineration units, not just municipal waste combustors as the commentor has implied.

86.

P21

"Permit" has been amended to include Federal operating permits as well as ACDPs [340-28-110(64)], making use of the term in sections 340-28-1700 through 1790 broader than intended.

OAR 340-28-1700 through 340-28-1790 have been amended to state "ACDP" rather than "permit" in order to avoid confusion and exempt federal operating permit program sources from ACDP requirements.

87. P29
340-28-110(72), In the definition of "potential to emit," the third sentence should be revised to read: "This definition does not alter or affect the use of this term ..."
The Department agrees with the comment that the third sentence should be revised to read "This definition does not alter or affect the use of this term" and has revised OAR 340-28-110(72) accordingly.
88. P1
Regarding potential to emit: rules need to clarify whether existing pollution control equipment can be factored into the calculation of potential emissions.
*OAR 340-28-110(72) contains the following definition of potential to emit: "means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air 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 is enforceable by the Administrator."
The definition specifically says that any physical or operation limitation, including air pollution control equipment, can be treated as part of the design. Maximum capacity includes physical and operational design. Therefore, the potential to emit should be calculated downstream from pollution control equipment. The Department feels that there is a misunderstanding on the commentor's part and proposes no change to the rule.*
89. P21
"Regulated pollutant" [340-28-110(76)] has been expanded to include (a)(F) which is not included in the federal definition and should be deleted entirely.
The definition of "regulated pollutant" has been revised to reflect the Department's proposed list of hazardous air pollutants in OAR 340-32-130 and OAR 340-32-5400.
90. P2, P3, P25, P26
340-28-110(82), Suggest rule be revised to read:
"Significant Air Quality Impact" means an ambient air quality impact which is equal to or greater than those set out in Table 1. For sources of 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. (Renumbered from OAR 340-20-225(26))

Table 1
OAR 340-28-110

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

Pollutant Averaging Time

<u>Pollutant</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

(Renumbered from OAR 340-20-225(25))

See Department response to 78.

91.

P2, P3, P25, P26

340-28-110(83), See P25 comments on HAP New Source Review. Suggest rule be revised to read:

"Significant emission rate" means:

- (a) Emission rates equal to or greater than the following for air pollutants regulated under the Clean Air Act:

Table 2
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
(D) PM ₁₀	15 tons/year
(E) Sulfur Dioxide	40 tons/year
(F) VOCs	40 tons/year
(G) Lead	0.6 ton/year
(H) Mercury	0.1 ton/year
(I) Beryllium	0.0004 ton/year
(J) Asbestos	0.007 ton/year
(K) Vinyl Chloride	1 ton/year
(L) Fluorides	3 tons/year
(M) Sulfuric Acid Mist	7 tons/year
(N) Hydrogen Sulfide	10 tons/year
(O) Total reduced sulfur (including hydrogen sulfide)	10 tons/year
(P) Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year

NOTE: For the Medford-Ashland Air Quality Maintenance Area, and the

Klamath Falls Urban Growth Area, the Significant Emission Rate for particulate matter is defined in Table 3.

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

See Department response to 78.

92. P29

340-28-110(83), The definition of "significant emission rate" does not include all of the pollutants currently regulated under the EPA's PSD regulations in 40 CFR 51.166(b) (e.g., pollutants regulated under the NSPS for municipal waste combustors) and will not be approvable as proposed.

See Department response to 78.

93. P21

Significant emission rate [340-28-110(83)(b)] expands the list of pollutants to possibly include HAPs, exceeding Federal rules, and sets emission rates which are unknown, making it impossible to comply. The rule should be dropped and the Department should, if needed, formalize the process through rulemaking.

See Department response to 78.

94. P29

340-28-110(83), Note that the definition of "significant ambient air quality impact" does not include an entry for lead.

See Department response to 78.

95. P5

340-28-110(84), Defines "Significant Impairment" of visibility. The Department has sole judgement authority to make the determination. Suggest that the evaluation should take into account the impact of the source on visibility and the impact of additional controls on visibility, particularly in light of recent research findings, e.g., National Research Council on protecting visibility in national parks and wilderness areas which found that, "in the West, no single source category dominates; therefore, an effective control strategy would have to cover many source types..." P5

The definition of "Significant impairment" is not part of this rulemaking, except for renumbering. See Department response to 78.

96. P29

340-28-110(86) & (89), The definitions of "source" (86) and "stationary source" (90) need to cover the two concepts of a "plant" and "individual parts of a plant". That is, for purposes of the major source programs (PSD, Part D NSR, Title V), the Oregon rules need a term which covers a plant wide concept (e.g., Definition (86)); and for purposes

of other programs (minor source review, NSPS, NESHAP) a term which covers individual buildings, structures, facilities, and installations (e.g., Definition (90)). However, Definition (90) incorrectly indicates that it is applicable to the Title V program. Rather, Definition (86) must be used for determining whether a source is major for purposes of Title V as well as for NSR. Definition (86) should be changed so that it only defines the term "source" and so that the term "source" is used throughout these regulations wherever the concept of a "major" source is needed.

The Department agrees with the comment that the definitions of "source" and "stationary source" are incorrect and has revised OAR 340-28-110(86) and 340-28-110(90) accordingly.

97. P29

340-28-110(92), The definition of "synthetic minor source" should be revised to add the term "federally enforceable" before the word "physical".

The Department disagrees with the comment that the words "federally enforceable" should be added to the definition of synthetic minor source. Synthetic minor sources shall be required to obtain Air Contaminant Discharge Permits (ACDP). The ACDP program is a component of the Oregon State Implementation Plan (SIP). All aspects of the SIP are federally enforceable, so the Department feels that the addition of "federally enforceable" is redundant and unnecessary. The Department proposes no change to the rules.

98. P2, P3, P25, P26

340-28-110(92), Suggest rule be revised to read:

"Synthetic minor source" means a source which would be classified as a major source under OAR 340-28-110(56)(b), but for physical or operational limits on its capacity **potential** to emit air pollutants contained in an ACDP issued by the Department under OAR 340-28-1700 through 340-28-1790.

The Department agrees with the commentor and has revised OAR 340-28-110(92) accordingly.

99. P29

340-28-110(93), The EPA's regulations do not include a definition of the term "Title I modification". The proposed Oregon definition does not include modifications covered by Section 110(a)(2)(C) of the Act. While the Oregon proposed definition is consistent with previous EPA policy statements, this issue is under litigation and reconsideration by the EPA. By excluding modifications subject to Oregon's SIP-approved Air Contaminant Discharge Permit Rules and Notice of Construction Rules, this provision may not be approvable.

The Department realizes that the definition of "Title I modification" does not include modifications covered by Section 110(a)(2)(C) of the Act. The Department has added proposed rule language, new OAR 340-28-2270, which requires preconstruction

review of the minor sources regulated under Section 110(a)(2)(C) of the Act. The new OAR 340-28-2270 has been drafted with the Notice of Construction rules (OAR 340-28-800 through 340-28-820) and the Air Contaminant Discharge Permit rules (OAR 340-28-1700 through 340-28-1790) as its basis. The Department feels that this rule revision will make definition of a Title I modification approvable.

100. P29
340-28-110(99), The definition for "volatile organic compounds" does not comply with the EPA definition in 40 CFR 51.100 and will not be approvable.
The Department agrees with the commentor and has revised OAR 340-28-110(99) accordingly. The Department omitted (d) from the definition because it contains direction to the EPA and is not necessary in Department rules. Also, in a document prepared by the EPA, "Questions and Answers on the Requirements of Operating Permits Program Regulations," dated July 7, 1993, the definition of VOC is exactly the same as the definition proposed by the Department.

101. P21
Changes in definitions of existing terms to accommodate new Federal requirements have the effect of changing the nature and scope of existing rules beyond that which is necessary to implement the federal program; likewise the failure to amend existing definitions to rule out new program elements to which they do not apply, changing scope and nature of regulation beyond that envisioned by the Clean Air Act.
The Department realizes the repercussions of combining the definitions into one section and adding definitions for the federal operating permit program rules. Therefore, the Department has carefully reviewed the definitions as they apply to Air Contaminant Discharge Permit (ACDP) sources and federal operating permit program sources. If a definition only applies to a certain rule, it is defined only for that rule. Combining the definitions will not affect the regulated community or the public, except for the fact that there will be one place in the rules to look for definitions. The rules have been separated out into sections: 1) rules that apply to all stationary sources, 2) rules that apply to sources required to obtain an Air Contaminant Discharge Permit (ACDP) or a federal operating permit, 3) rules that apply to sources required to obtain an ACDP (state-only) and 4) rules that apply to sources required to obtain a federal operating permit (federal only). For Division 28, only the procedural rules will change as far as applicability. The impact to the regulated community, especially sources that are required to obtain a federal operating permit, is explained throughout the whole rule package by specifying what new requirements are applicable. The Department proposes no change to the rule.

RULES APPLICABLE TO ALL STATIONARY SOURCES (340-28-200 THROUGH 340-28-820)

APPLICABILITY (340-28-200):

102. P2, P3, P25, P26
340-28-200, See P25 comments on Notice of Intent to Construct and the suggested revision to OAR 340-28-800. Suggest rule be revised to read:
Unless these rules specify otherwise, OAR 340-28-200 through 340-28-820 shall apply to all stationary sources in the state.
The Department agrees with the commentor and has revised OAR 340-28-200 accordingly.

HIGHEST AND BEST PRACTICABLE TREATMENT AND CONTROL REQUIREMENTS

103. M1, M5, M6, M8, M9, M14, M16, M17, S1, P9, P12, P15, P16, P17, P27, P28
The current "Highest and Best" standard should be retained. Any changes to Highest and Best should be limited to efforts to better define the means to attain the current objectives, which currently are extremely broad and must remain so in any revision.
The Highest and Best Practicable Treatment and Control (Highest and Best) rule is not part of this rulemaking. The proposed rule package does not contain changes to this rule other than renumbering. The Highest and Best rule is addressed in the July 9, 1993 proposed rulemaking and will be heard at the October, 1993 Environmental Quality Commission Meeting.
104. P2, P3, P22, P25, P26
340-28-600 is vague and overbroad. It could be interpreted in ways that would swallow all the Department's other rules, making them superfluous. More importantly, the rule's vagueness makes the compliance demonstrations required under these new rules impossible.
See Department response to 103.
105. P24
How does the "highest and best practicable treatment and control" requirement impact and/or interface with BACT and LAER?
See Department response to 103.

106. P2, P3, P25, P26
340-28-600, See P25 comments on Highest and Best Rule. Suggest rule be revised to read:
~~Notwithstanding the general and specific emission standards and regulations contained in this Division, the highest and best practicable treatment and control of air contaminant emissions shall in every case be provided so as to maintain overall air quality at the highest possible levels, and to maintain contaminant concentrations,~~

visibility reduction, odors, soiling and other deleterious factors at the lowest possible levels. In the case of new sources of air contamination, particularly those located in areas with existing high air quality, the degree of treatment and control provided shall be such that degradation of existing air quality is minimized to the greatest extent possible.

See Department response to 103.

NOTICE OF CONSTRUCTION AND APPROVAL OF PLANS (340-28-800 THROUGH 340-28-820):

107.

P2

Are preconstruction review procedures in addition to PSD program procedures?
These elements are all part of the existing permitting program and do not constitute any new additional requirements. The existing permitting program requires sources to submit applications for construction and operating permits (Air Contaminant Discharge Permits). There are also existing rules that require sources to submit notices whenever new construction is done that does not require a permit or modification (Notice of Intent to Construct). The Prevention of Significant Deterioration program is triggered only when a source increases emissions by greater than the significant emission rates in an attainment area and the source is major as defined by OAR 340-28-110(56)(a). The Department proposes no change to the rule.

108.

M2, M3, M10

Requiring construction permits in addition to federal operating permits will result in an unnecessary duplication of efforts.
The Title V permit program is specifically an operating permit program. Other programs in the Clean Air Act and in the Oregon SIP regulate the construction of new or modified air pollution sources. Under Title III of the 1990 Amendments, states must also have a construction mechanism to establish prior to construction Maximum Achievable Control Technology (MACT) for new and modified sources of hazardous air pollutants. The EPA provides states with the option to integrate requirements of preconstruction review with the requirements of Title V. The Department has done so by drafting a new, proposed OAR 340-28-2270, which regulates preconstruction review of changes that do not trigger New Source Review or Prevention of Significant Deterioration. The new OAR 340-28-2270 has been drafted with the Notice of Construction rules (OAR 340-28-800 through 340-28-820) and the Air Contaminant Discharge Permit rules (OAR 340-28-1700 through 340-28-1790) as its basis. An owner or operator of a federal operating permit program source must still have the preconstruction approval incorporated in to the federal operating permit, under the appropriate mechanism. There will not be a duplication of efforts.

109. P2, P3, P25, P26
340-28-800, See P25 comments on Notice of Intent to Construct. Suggest rule be revised to read:
No person shall construct, install, or establish a new source of air contaminant emission of any class listed in OAR 340-28-810(1) and not under the jurisdiction of a regional air quality control authority without first notifying the Department in writing. **OAR 340-28-800 through OAR 340-28-820 shall not apply to sources with federal operating permits.**
The Department agrees with the commentor and has revised OAR 340-28-800 accordingly.

110. P22
Regarding 340-28-810(1)(e) and (2)(b): parameters are general and it is difficult to determine when the notice to construct requirement applies. Suggest the following criteria to apply to both major and minor sources: Notice to construct is required for: 1) Any new emissions unit or increase in emissions of a total emissions unit; 2) Changes in DEQ required control equipment, excluding regular maintenance, that affects the equipment performance; 3) Change in required monitoring equipment.
In drafting the new OAR 340-28-2270 for preconstruction review, the Department has added clarifying language. This language should make it easier for owners or operators of federal operating permit program sources to determine when such preconstruction review is necessary.

111. P23, P25, P2, P3, P26
340-28-800 to 340-28-820, The proposed rules do not exempt Title V sources from the existing notice of intent to construct rules. The existing rules require 60 days' prior notice of new construction, which includes replacement and modification of air contamination sources. This requirement is inconsistent with, and would make useless, the operational flexibility provisions of Title V. Title V sources should be exempted from these requirements.
The addition of the new OAR 340-28-2270, which contains similar requirements to the Notice of Construction rule and the Air Contaminant Discharge Permit rule, will allow the Department to exempt federal operating permit program sources from OAR 340-28-800 through 340-28-820 and OAR 340-28-1700 through 340-28-1790. The only instance when a federal operating permit program source would be required to obtain an Air Contaminant Discharge Permit is if New Source Review or Prevention of Significant Deterioration is triggered.
Operational flexibility does not grant owners or operators construction flexibility. It allows for operational flexibility of existing sources. If preconstruction approval is required, it can be incorporated into a federal operating permit under one of the operational flexibility provisions, if appropriate.

112.

M1, M5, M6, M7, M8, M9, M14, M16, M17, P4, P9, P16, P19, P20, P17, P28, P31
The construction permit process and the operating permit process should be separate and not combined.

The Department has included a new OAR 340-28-2270 in the federal operating permit program rules which covers preconstruction review. This incorporation eliminates the need for owners or operators of federal operating permit program sources to go outside the federal operating permit program to obtain construction approval. This incorporation maintains the separation between the construction and operation review. If the construction or modification requires an increase of emissions over permitted levels, public notice is still required at the preconstruction review phase. If the construction or modification is done differently than that approved in the preconstruction approval, incorporation into the federal operating permit may require another public notice period.

113.

P29

340-28-820(6), The sentence added to the end of (6) should be made into a separate subsection.

The added sentence has been deleted. See Department response to 108.

RULES APPLICABLE TO SOURCES REQUIRED TO HAVE AIR CONTAMINANT DISCHARGE PERMITS OR FEDERAL OPERATING PERMITS (340-28-900 THROUGH 1720)

APPLICABILITY

114.

P24

340-28-900, The DEQ should clarify that a source will have only one permit, Title V or ACDP. The Ogden-Martin Brooks facility appears to need a Title V permit as a major source and an ACDP because the facility disposes of medical waste.

See Department response to 111.

PLANT SITE EMISSION LIMITS (340-28-1000 THROUGH 340-28-1050)

115.

P21

Since Plant Site Emission Limits (PSEL) do not apply to HAPs, 340-28-1010(1) should be amended to read "All sources subject to regular permit requirements shall be subject to PSEL for all federal and state regulated pollutants except as provided in OAR 340-28-1050."

The rule language of OAR 340-28-1050 expressly exempts HAPs from being considered "regulated pollutants" for purposes of the PSEL rule. Therefore, the suggested language would be redundant.

116. P21

By exempting HAPs from PSEL the regulations effectively prohibit the use of alternative emission controls for HAP. Nothing in the federal regulations would prevent such a use provided specific requirements are met. 340-28-1030(2) should be amended to read "net emissions for each pollutant are not increased above the PSEL required by 340-28-1010." 340-28-1030(6) should be amended to read "Specific mass emission limits are established for each emission unit involved such that compliance with the PSEL can be readily determined."

It is the Department's intention to exclude major HAP sources from the Alternative Emission Controls provisions of OAR 340-28-1030. Emissions offsetting provisions for major HAP sources will be included in Division 32 as soon as the EPA issues guidance on or promulgates rules under section 112(g) of the FCAA. The provisions of OAR 340-28-1030 conflict with the intentions of section 112(g) of the FCAA therefore, major HAP sources have been excluded from these provisions.

117. P21

Regarding 340-28-1050: Other pollutants regulated under section 112, in addition to those stated in -1050, should be exempted from PSEL requirements, e.g., 112(r) pollutants which are regulated solely on their accidental release potential and not routine emissions.

The Department agrees with the commenters and has revised the proposed rule language to include the list of accidental release pollutants in the exclusion under OAR 340-28-1050(1).

118. P25, P2, P3, P26

340-28-1050(2)(b) would authorize the Department to establish PSELS for HAPs when the HAP source became "subject to a hazardous air pollutant emission standard, limitation, or control requirement other than" PSELS. Mandatory PSELS for HAPs are not appropriate. The PSEL program was intended to regulate criteria pollutants, not HAPs, which are subject to a comprehensive program of MACT limits, and it may be impossible to establish realistic baseline emissions of HAPs. Delete 340-28-1050(2)(b).

The proposed rule language of OAR 340-28-1050(2) states that the Department may establish PSELS for major HAP sources. If a PSEL were established for HAP emission it is the Departments's intention to ensure that the PSEL coincides with any MACT or other emissions standard established for the source. OAR 340-28-1050(3)(a) explicitly states that if the Department should establish a PSEL for a HAP source a baseline emission rate shall not apply.

119. P2, P3, P25, P26

340-28-1010(1), For consistency with proposed OAR 340-28-1050. Suggest rule be revised to read:

PSELS shall be incorporated in all ACDPs and federal operating permits except minimal

source permits and special letter permits as a means of managing airshed capacity. All sources subject to regular permit requirements shall be subject to PSEs for all federal and state regulated pollutants, except as provided in OAR 340-28-1050. PSEs will be incorporated in permits when permits are renewed, modified, or newly issued.

See Department response to 115.

120. P2, P3, P25, P26

340-28-1050(1), Because of the broad definition of "regulated pollutant" and the expansive language of OAR 340-28-1010(1), the failure to exclude all pollutants regulated under Division 32 might require PSEs for the "accidental release" pollutants listed under subsection 112(r) and Table 4 to proposed OAR 340-32-5100. Clearly, this was not the Department's intention. Suggest rule be revised to read:

For purposes of establishing PSEs, hazardous air pollutants listed under section 112(b) of the FCAA or OAR 340-32-130 and other pollutants listed or regulated under Division 32 of OAR Chapter 340 shall not be considered regulated air pollutants under OAR 340-28-1010 until such time as the Commission determines otherwise.

See Department response to 117.

121. P2, P3, P25, P26

340-28-1050(2), See P25 comments on Plant Site Emission Limits for HAPs. Suggest rule be revised to read:

The Department may establish PSEs for hazardous air pollutants for the following causes:

(a) a source elects to establish a PSEL for any hazardous air pollutant emitted for purposes of determining emission fees as prescribed in OAR 340-28-2400 through 340-28-2550 or,

~~(b) the source is subject to a hazardous air pollutant emission standard, limitation, or control requirement other than Plant Site Emission Limits.~~

See Department response to 118.

122. P2, P3, P25, P26

340-28-1050(4), Suggest rule be revised to read:

PSEs established for hazardous air pollutants shall not be used for any provisions other than those prescribed in section (2) of this rule.

The Department has made the suggested grammatical change to rule 340-28-1050(4).

SAMPLING, TESTING AND MEASUREMENT (340-28-1100 THROUGH 340-28-1140):

123. S2

Self-administration of emissions should not be allowed. Emissions should be monitored by a neutral party such as the DEQ.

The Department does not have adequate resources to monitor emissions from sources and believes the existing practice is valid. Permits have required sources to monitor or source test for emissions and this practice will continue. The Department requires sources to submit quality assurance plans to ensure that the data gathered is accurate. The Department implements quality assurance/quality control requirements for continuous monitoring systems, as well as conducting audits, and tries to observe as many source tests as possible to ensure data accuracy.

Criminal enforcement provisions in the Clean Air Act Amendments allow the Department to take criminal enforcement actions against the responsible corporate official when a source has submitted incorrect information. The Department feels that this aspect will provide added incentive for sources to submit accurate and reliable data. The Department proposes no change to the rule.

REQUIREMENTS FOR MAINTAINING RECORDS AND REPORTING (340-28-1140):

124. M2, M3, M10, PN1
Thirty days after end of reporting period is not enough time to gather and prepare data for semi-annual reporting requirements. Existing ACDP rules allow 60 days, for instance.
Existing monitoring and reporting requirements for ACDP sources [OAR 340-20-046] require submittal of reports within thirty days after the end of each reporting period. Also see Department response to 127.
125. M2, M3, M10, PN1
The reporting period should be changed from semi-annual to annual.
The federal regulations require owners or operators to submit reports of any required monitoring at least every 6 months. The semi-annual report required by the federal operating permit program rules will contain only the compliance certification. The Department does not feel that this is an unnecessary burden to owners or operators. It will make them inventory their compliance status, and it will alert the Department to any problems. The annual reports that are currently submitted will not change, except to include the second half of the compliance certification. The Department proposes no change to the rule.
126. M10
Semi-annual reporting should be required only where more frequent reporting is not required by other regulations, e.g., monthly CEM reporting in Medford.
The monthly reporting requirements for the Medford area [OAR 340-30-050(2)] require permittees to submit continuous monitoring data for carbon monoxide and oxygen concentrations and for scrubber operating parameters or opacity. The semi-annual reporting requirements for the federal operating permit program require permittees to submit a compliance certification, which includes testing, monitoring,

reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. The monthly reports submitted by Medford permittees will not contain all the data requirements of the compliance certification. Medford permittees may submit the semi-annual compliance certification in place of one of the monthly monitoring reports, if desired.

127. P22

It's extremely difficult to submit reports within 30 days after the end of each reporting period. Sampling, analysis and data calculations will take a minimum of 6 weeks. Suggest a minimum of 45 days with an option to extend based on satisfactory justification from source. [340-28-2130(3)(c)(A)]

The Department realizes that for some companies it is difficult to gather information required to be reported within the 30 day time period. Federal operating permit program rule, [OAR 340-28-2130(3)(c)(ii)], has been modified to allow the Department to approve a longer period, up to sixty-five days, to submit the annual report if the source can justify a need.

128. P26, P2

340-28-1140(2), The rules should state the conditions that would allow the DEQ to increase reporting frequency. For federal operating permit program sources, the other reporting requirements—under operational flexibility, compliance reporting (e.g., prompt reporting of deviations), and for any significant increases in emissions—should suffice. For ACDP-only sources, the triggers for more frequent reporting should be described (e.g., NAAQS violation, permit violations, significant threat to human health or environment), otherwise this proposal should be withdrawn.

The Department agrees with the comment that criteria for more frequent monitoring required by OAR 340-28-1140(2) should be specified and has revised OAR 340-28-1140(2) accordingly.

129. P1

Monitoring, recordkeeping and reporting requirements are outlined in full text in Title V section, referred to in ACDP section but not outlined in full in ACDP. Continuity and understanding would be enhanced if also reprinted here.

See Department response to 130.

130. P1

Monitoring, recordkeeping and reporting requirements, apparently identical for major and minor sources, should be focussed on those sources where there exists the most potential to achieve environmental gains, i.e., major sources. Other requirements of major sources which are applicable to minor sources should be reviewed for need and practicality.

The ACDP rules reference the reporting and monitoring rules for the federal

operating permit program sources only for synthetic minor sources. These requirements do not apply to non-synthetic minor ACDP sources. The EPA requires that the owner or operator of a source who chooses to make it a synthetic minor source use the reporting and monitoring requirements of Title V. The Department proposes no change to the rule.

EXCESS EMISSIONS AND EMERGENCY PROVISIONS (340-28-1400 THROUGH 340-28-1460):

131. S1, P9, P15

The rules should not provide loopholes to allow businesses to exceed emission levels or otherwise violate permits or rules, therefore oppose the broad affirmative defense for excess emissions proposed by industry.

The proposed rules continue the same opportunities for judicial review that exist under Oregon law. The Department is not aware of any "loopholes" in the rules. The affirmative defense provided for in the excess emission rules is required by the EPA rules. The Department is not proposing to broaden the affirmative defense as suggested by other commenters.

Also see Department response to 133.

132. P24

The term "technology-based standards" is used throughout. However the term is not defined and leaves sources unsure whether regulatory relief is available for excess emissions attributable to genuine emergencies. Terminology needs to be clarified or deleted.

The Department is currently developing a definition for "technology-based standards." The EPA has informed the Department and industry that this definition includes NSPS, MACT, and applications of BACT, LAER, and RACT which are not specifically intended to promote compliance with health-based standards. In the future, source permits may be bifurcated to distinguish between technology-based standards and health-based standards.

133. P25, P2, P3, P26

340-28-1400 through -1460, The proposed rules provide only the minimum affirmative defense required by Federal rules. If a source can demonstrate, under the high standards of proof demanded by this section, that an exceedance of a permit condition was unavoidable, the source should be entitled to an affirmative defense.

To meet the intent of 40 CFR §70.6(g) the Department is required to provide Title V sources with an affirmative defense when emissions exceed a technology-based standard due to an emergency. During the rulemaking process, the EPA informed the Department that the affirmative defense applies only to exceedances of technology-

based standards and cannot be extended to other classes of excess emissions. This does not imply that the Department would undertake enforcement actions for these other classes of excess emissions if they are identified as unavoidable. Existing enforcement discretion would continue to apply to other unavoidable events. The Department is committed to developing rules which are consistent and equitable to the entire regulated community. Because of this, the affirmative defense has been extended to apply to both large sources (as defined in OAR 340-28-110(52)) and small sources (as defined in OAR 340-28-110(85)).

134.

a.

340-28-1400 through -1460, If Oregon is relying on the Excess Emissions and Emergency Provision to satisfy the requirements of § 70.6(a)(3)(iii)(B), the reporting requirements need to be revised to include reporting of violations of all permit terms, not just excess emissions, and to include reporting of all information required in § 70.6(a)(3)(iii)(B).

The Department agrees that the omission of 70.6(a)(3)(iii)(B) of the federal regulation is not adequately addressed in the Excess Emissions and Emergency Provision rules [OAR 340-28-1400 through 1460] and has revised OAR 340-28-2130(3)(c) accordingly. The reporting requirements in the Excess Emissions Rule and Emergency Provision apply only to emissions in excess of applicable standards. OAR 340-28-2130(3)(c)(A) will be modified to address the reporting of other violations of permit terms.

b.

In addition, the structure of 340-28-1430 is confusing. The section could be clarified by combining subsections (2) and (3) into a single subsection 2 beginning with a lead in "In the case of all other upsets and breakdowns:" Former subsections (2) and (3) could then be renumbered (A) and (B). 340-28-1430(1)(a) must also be clarified to require written notice and the cross-reference in 340-28-1430(1)(b) should be changed to 340-28-1460.

The Department agrees with these comments and has revised OAR 340-28-1430 accordingly.

135.

P29

The treatment of the emergency provision of Section 70.6(g) is confusing because a source must consult 4 separate sections: the definition of "emergency," 340-28-1430, 340-28-1450, and OAR 340-28-1460 to determine if the source qualifies for the emergency provision. If this section is not reorganized, 340-28-1460(a) should be revised to refer to 340-28-1430 in addition to 340-28-1450.

The Department agrees with these comments and has revised OAR 340-28-1460(1) accordingly.

136.

P2, P3, P25, P26

340-28-1400, Suggest rule be revised to read:

Emissions of air contaminants in excess of applicable standards or permit conditions are considered unauthorized and subject to enforcement action, pursuant to OAR 340-28-1410 through 340-28-1460. OAR 340-28-1400 through 340-28-1460 apply to any source which emits air contaminants in excess of any applicable air quality rule or permit condition resulting from the breakdown of air pollution control equipment or operating equipment, process upset, startup, shutdown, or scheduled maintenance. The purpose of these rules is to:

- (4) Provide sources an affirmative defense to enforcement when noncompliance with ~~technology-based~~ emission limits is unavoidable or due to an emergency pursuant to OAR 340-28-1460.

See Department response to 133.

137.

P2, P3, P25, P26

340-28-1410(1), Suggest rule be revised to read:

For cases where startup or shutdown of a production process or system may result in excess emissions, prior Department authorization shall be obtained of startup/shutdown procedures that will be used to minimize excess emissions. Application for approval of new procedures or modifications to existing procedures shall be submitted and received by the Department in writing at least seventy-two (72) hours prior to the first occurrence of a startup or shutdown event to which these procedures apply, and shall include the following:

- (a) The reasons why the excess emissions during startup and shutdown ~~could not~~ cannot be avoided;
- (b) Identification of the specific production process or system ~~causing~~ that causes the excess emissions;

The Department agrees with these comments and has revised OAR 340-28-1410(1)(a) and (b) accordingly.

138.

P2, P3, P25, P26

a.

340-28-1410(2), Suggest rule be revised to read:

Approval of the startup/shutdown procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-28-1440(3) and shall submit a written report concerning the emissions to the Department in accordance with OAR 340-28-1440(1).

A written excess emissions report is required only upon request by the Department. Any reference to such a report in this rule is unnecessary and may be confusing to the regulated community. The Department proposes no change to rule language.

b.

Approval of the startup/shutdown procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions which occur are determined by the Department to be avoidable, pursuant to OAR 340-28-1450. If the permittee follows all applicable and approved startup or shutdown procedures, any excess emissions that occur as a result of the startup or shutdown shall be presumed to be unavoidable. The Department, pursuant to the criteria set forth in OAR 340-28-1450, may nonetheless rebut this presumption with evidence that demonstrates that the emissions were avoidable.

There may be instances where approved procedures were followed but enforcement action is still warranted for excess emissions which are determined to be avoidable. Because of this, the Department proposes no change to rule language.

139.

P2, P3, P25, P26

340-28-1410(3), Suggest rule be revised to read:

~~Sources shall notify the Department of a planned startup or shutdown event which may result in excess emissions if required by permit condition or if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards. When required, notification shall be made by telephone or in writing as soon as possible prior to the event and shall include the date and estimated time and duration of the startup or shutdown event.~~

See Department response to 141.

140.

P24

340-28-1410(3), Annual reporting of planned startup and shutdown is possible and less burdensome than the more frequent requirements set forth in the proposed rule. Suggest: after the phrase "in excess of applicable standards" delete the following and replace with, Written notification shall be submitted to the Department no later than the 15th of January of each calendar year. Any changes in the schedule submitted to the Department shall be communicated as soon as possible but in no case more than 24 hours following the beginning of the startup or shutdown event. Notification shall include the date and estimated time and duration of the startup or shutdown.

~~Annual reporting of planned startup/shutdown and scheduled maintenance procedures are required pursuant to OAR 340-28-1410(4) and 340-28-1420(4). See the Department response to 141.~~

141.

P25, P2, P3, P26

340-28-1410(3) and 340-28-1420(3) add two unnecessary requirements. First, sources must in certain instances notify the Department before the startup, shutdown, or scheduled maintenance occurs. Second, sources must also notify the Department immediately after the startup, shutdown, or scheduled maintenance begins. These notification requirements are unnecessary because the rules already prohibit startups, shutdowns, and scheduled maintenance associated with approved procedures during

air pollution alerts, warnings, emergencies, and woodstove curtailment periods [340-28-1410(5), 340-28-1420(5)]. Notice should only be required if excess emissions actually occur during the startup, shutdown or maintenance.

Only problem sources or sources which are located in a nonattainment area for a pollutant which may be emitted in excess of applicable limits are required to notify the Department prior to excess emissions events due to planned startup/shutdown, or scheduled maintenance. Notification by these sources will help the Department in its effort to minimize air quality impacts and protect public health. The majority of sources will not need to provide advance notification if they follow approved procedures.

The Department proposes no changes to OAR 340-28-1410(3) or OAR 340-28-1420(3).

142.

P25, P2, P3, P26

340-28-1410(2), -1420(2), -1430(6), Rules provide no incentive for sources to obtain approval of startup, shutdown, and scheduled maintenance procedures. If sources follow approved procedures, which must minimize excess emissions, any excess emissions that occur notwithstanding the procedures should be rebuttably presumed to be unavoidable. Without such a presumption, sources have no reason to expend the effort to obtain approval. Evidence of negligence, allowing the Department to take enforcement action, could be obtained through the excess emission reports the Department is authorized to require from sources.

Advance approval of procedures will help a source minimize the frequency and magnitude of excess emissions events and, in turn, minimize the possibility of enforcement actions. In addition, once approval for startup, shutdown, and maintenance procedures is granted, the administrative burden to industry is expected to decrease since resubmittal of procedures is not required except at the annual reporting period or if modifications are needed. The Department requires immediate notification of the event only if a source has: a) failed to obtain approval of applicable procedures; or b) failed to provide advance notification of excess emissions if required by permit.

Although startup, shutdown, and maintenance procedures are intended to minimize the frequency and magnitude of excess emissions, there may be circumstances where an excess emissions event was avoidable even if a source followed approved procedures. Because of this, the Department reserves discretion to assess the avoidability or unavoidability of all excess emissions events.

The Department proposes no changes to OAR 340-28-1410, OAR 340-28-1420, or OAR 340-28-1430 in response to these comments.

143.

P2, P3, P25, P26

340-28-1410(6), Suggest rule be revised to read:

~~The permittee shall immediately notify the Department by telephone of a startup or~~

shutdown event and shall be subject to the requirements under Upsets and Breakdowns in OAR 340-28-1430 if the permittee fails to:

(a) ~~Obtain Department approval of startup/shutdown procedures in accordance with OAR 340-28-1410(1); or~~

(b) ~~Notify the Department of a startup or shutdown event which may result in excess emissions in accordance with OAR 340-28-1410(3).~~

This rule section is necessary in order to properly track excess emissions from startup or shutdown events in case a source operator or owner does not have pre-approved procedures or has failed to provide required Department notification. This language cannot be deleted because it would result in a rule relaxation.

144. P2, P3, P25, P26

340-28-1420(2), Suggest rule be revised to read:

a.

Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-28-1440(3) and shall submit a written report concerning the emissions to the Department in accordance with OAR 340-28-1440(1).

See Department response to 138.

b.

~~Approval of the above procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur which are determined by the Department to be avoidable, pursuant to OAR 340-28-1450.~~ If the permittee follows all applicable and approved scheduled maintenance procedures, any excess emissions that occur as a result of the scheduled maintenance shall be presumed to be unavoidable. The Department, pursuant to the criteria set forth in OAR 340-28-1450, may nonetheless rebut this presumption with evidence that demonstrates that the emissions were avoidable.

See Department response to 138.

145. P2, P3, P25, P26

340-28-1420(3), Suggest rule be revised to read:

~~Sources shall notify the Department of a scheduled maintenance event which may result in excess emissions if required by permit condition or if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards. When required, notification shall be made by telephone or in writing as soon as possible prior to the event and shall include the date and estimated time and~~

~~duration of the scheduled maintenance event.~~

See Department response to 141.

146. P24
340-28-1430(1), If excess emissions are due to any legitimate emergency the source should be entitled to affirmative defense as long as conditions (a) and (b) are met. Suggest: "For upsets or breakdowns caused by an emergency and resulting in emissions in excess of ~~[technology based standards,]~~ the PSEL(s), the source may be entitled to an affirmative defense to enforcement if..."
Substituting the term "PSELS" for "technology-based standards" is less stringent than the federal emergency provision. Because of this, the Department proposes no change to this rule.
147. P24
340-28-1430(1)(e), Suggest: "Where applicable, evidence supporting any claim that emissions in excess of ~~[technology based standards,]~~ the PSEL(s) were due to an emergency pursuant to OAR 340-28-1460."
See Department response to 146.
148. P2, P3, P25, P26
340-28-1430(2), Suggest rule be revised to read:
For large sources, as defined by OAR 340-28-110, all excess emissions events due to upset or breakdown, other than those described in OAR 340-28-1430(1), shall be reported to the Department immediately unless otherwise specified by permit condition. Based on the severity of the event, the Department will either require submittal of a written report pursuant to OAR 340-28-1440(1) and (2), or a recording of the event in the upset log as required in OAR 340-28-1440(3).
The Department agrees with this comment and has changed OAR 340-28-1430(2)(a) accordingly.
149. P2, P3, P25, P26
340-28-1430(6), Suggest rule be revised to read:
~~The permittee shall immediately notify the Department by telephone of a maintenance event and shall be subject to the requirements under Upsets and Breakdowns in OAR 340-28-1430 if the permittee fails to:~~
~~(a) Obtain Department approval of maintenance procedures in accordance with OAR 340-28-1420(1); or~~
~~(b) Notify the Department of a maintenance event which may result in excess emissions in accordance with OAR 340-28-1420(3).~~
See Department response to 143.
150. P2, P3, P25, P26

a.
340-28-1440(1), The permittee may not be able to determine the cause of an excess emissions event within the short time for making the report. Suggest rule be revised to read:

For any ~~period of excess emissions~~ event, the Department may require the source to submit a written excess emission report within fifteen (15) days of the date of the event, which includes the following:

The Department agrees with this comment and has changed the initial paragraph of OAR 340-28-1440(1) accordingly.

b.

(a) The date and time each event was reported to the Department;

(b) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction;

(c) Information as described in OAR 340-28-1450(1) through (5);

(d) The final resolution of the cause of the excess emissions, if known; and

(e) Where applicable, evidence supporting any claim that emissions in excess of technology-based limits were due to an emergency pursuant to OAR 340-28-1460.

The Department believes that it is reasonable to expect industry to know the final resolution of the cause of the excess emissions event. The suggested additional language may relax the existing rule, thus, no change is proposed.

151.

P2, P3, P25, P26

340-28-1440(1), Suggest rule be revised to read:

~~For upsets or breakdowns caused by an emergency and resulting in emissions in excess of technology-based standards, the source may be entitled to an affirmative defense to enforcement if:~~

~~(a) the Department is notified immediately of the emergency condition; and~~

~~(b) the source fulfills requirements outlined in the Emergency Provision in OAR 340-20-1460.~~

The language in this section clarifies that sources may be an entitled to an affirmative defense for upsets or breakdowns which, due to an emergency, result in emissions in excess of technology-based standards. The Department proposes no change to the rule.

152.

P2, P3, P25, P26

340-28-1440(3), Suggest rule be revised to read:

Small sources, as defined by OAR 340-28-110, need not report excess emissions events due to upset or breakdown immediately unless otherwise required by: permit condition; written notice by the Department; OAR 340-28-1430(1)(a); or if the excess emission is of a nature that could endanger public health. Based on the severity of the event, the Department will either require submittal of a written report pursuant to OAR

340-28-1440(1) and (2), or a recording of the event in the upset log as required in OAR 340-28-1440(3).

The Department agrees with this comment and has changed OAR 340-28-1430(2)(b) accordingly.

153. P2, P3, P25, P26

340-28-1440(6), Suggest rule be revised to read:

Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-28-1440(3). At any time during the period of excess emissions the Department may require the source to cease operation, in accordance with OAR 340-28-1430(3). ~~In addition, approval of these procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur that are determined by the Department to be avoidable, pursuant to OAR 340-28-1450.~~ If the permittee follows all applicable and approved procedures, any excess emissions that occur shall be presumed to be unavoidable. The Department, pursuant to the criteria set forth in OAR 340-28-1450, may nonetheless rebut this presumption with evidence that demonstrates that the emissions were avoidable.

See Department response to 138.

154. P2, P3, P25, P26

340-28-1450, Suggest rule be revised to read:

~~In determining if a period of An excess emissions event is unavoidable or due to an emergency if, and whether enforcement action is warranted, the Department, based upon information submitted by the source, shall consider whether the following criteria are met:~~

- (1) ~~Where applicable~~ If the excess emissions were due to an emergency, the source submitted a description of any ~~the~~ emergency which may have caused emissions in excess of technology-based limits and sufficiently demonstrated, through properly signed, contemporaneous operating logs, upset logs, or other relevant evidence that an emergency caused the excess emissions and that all causes of the emergency were identified.

The original language describes the purpose of the enforcement action criteria. This intent is not captured in the recommended change. The Department proposes no change to the rule.

See also Department response to 133.

155. P25, P2, P3, P26

340-28-1450, sets forth criteria determining whether an affirmative defense is available

340-28-1440(1), The permittee may not be able to determine the cause of an excess emissions event within the short time for making the report. Suggest rule be revised to read:

For any ~~period of~~ excess emissions event, the Department may require the source to submit a written excess emission report within fifteen (15) days of the date of the event, which includes the following:

The Department agrees with this comment and has changed the initial paragraph of OAR 340-28-1440(1) accordingly.

b.

- (a) The date and time each event was reported to the Department;
- (b) Whether the event occurred during startup, shutdown, maintenance, or as a result of a breakdown or malfunction;
- (c) Information as described in OAR 340-28-1450(1) through (5);
- (d) The final resolution of the cause of the excess emissions, if known; and
- (e) Where applicable, evidence supporting any claim that emissions in excess of technology-based limits were due to an emergency pursuant to OAR 340-28-1460.

The Department believes that it is reasonable to expect industry to know the final resolution of the cause of the excess emissions event. The suggested additional language may relax the existing rule, thus, no change is proposed.

151.

P2, P3, P25, P26

340-28-1440(1), Suggest rule be revised to read:

~~For upsets or breakdowns caused by an emergency and resulting in emissions in excess of technology based standards, the source may be entitled to an affirmative defense to enforcement if:~~

- ~~(a) the Department is notified immediately of the emergency condition; and~~
- ~~(b) the source fulfills requirements outlined in the Emergency Provision in OAR 340-20-1460.~~

The language in this section clarifies that sources may be an entitled to an affirmative defense for upsets or breakdowns which, due to an emergency, result in emissions in excess of technology-based standards. The Department proposes no change to the rule.

152.

P2, P3, P25, P26

340-28-1440(3), Suggest rule be revised to read:

Small sources, as defined by OAR 340-28-110, need not report excess emissions events due to upset or breakdown immediately unless otherwise required by: permit condition; written notice by the Department; OAR 340-28-1430(1)(a); or if the excess emission is of a nature that could endanger public health. Based on the severity of the event, the Department will either require submittal of a written

report pursuant to OAR 340-28-1440(1) and (2), or a recording of the event in the upset log as required in OAR 340-28-1440(3).

The Department agrees with this comment and has changed OAR 340-28-1430(2)(b) accordingly.

153.

P2, P3, P25, P26

340-28-1440(6), Suggest rule be revised to read:

Approval of the above procedures by the Department shall be based upon determination that said procedures are consistent with good pollution control practices, and will minimize emissions during such period to the extent practicable, and that no adverse health impact on the public will occur. The permittee shall record all excess emissions in the upset log as required in OAR 340-28-1440(3). At any time during the period of excess emissions the Department may require the source to cease operation, in accordance with OAR 340-28-1430(3). ~~In addition, approval of these procedures shall not absolve the permittee from enforcement action if the approved procedures are not followed, or if excess emissions occur that are determined by the Department to be avoidable, pursuant to OAR 340-28-1450.~~ If the permittee follows all applicable and approved procedures, any excess emissions that occur shall be presumed to be unavoidable. The Department, pursuant to the criteria set forth in OAR 340-28-1450, may nonetheless rebut this presumption with evidence that demonstrates that the emissions were avoidable.

See Department response to 138.

154.

P2, P3, P25, P26

340-28-1450, Suggest rule be revised to read:

~~In determining if a period of An excess emissions event is unavoidable or due to an emergency if, and whether enforcement action is warranted, the Department, based upon information submitted by the source, shall consider whether the following criteria are met:~~

- (1) ~~Where applicable~~ If the excess emissions were due to an emergency, the source submitted a description of ~~any~~ the emergency which may have caused emissions in excess of technology-based limits and sufficiently demonstrated, through properly signed, contemporaneous operating logs, upset logs, or other relevant evidence that an emergency caused the excess emissions and that all causes of the emergency were identified.

The original language describes the purpose of the enforcement action criteria. This intent is not captured in the recommended change. The Department proposes no change to the rule.

See also Department response to 133.

155.

P25, P2, P3, P26

340-28-1450, sets forth criteria determining whether an affirmative defense is available for excess emissions caused by an emergency and for determining whether an enforcement action is warranted for excess emissions that are due to other causes. These criteria include both the Department's existing enforcement action criteria and additional criteria contained in the federal emergency rule set forth at 40 C.F.R. § 70.6(g). To the extent that an emergency defense must satisfy criteria other than those set forth in 40 C.F.R. § 70.6(g), including the immediate reporting requirement, this provision is inconsistent with ORS 468A.310(2).

The Department concurs that criteria for establishing whether the affirmative defense is applicable should be limited to those specified in 40 CFR §70.6(g), where possible. However, since the Excess Emissions Rule has been adopted as part of Oregon's State Implementation Plan (SIP), the Department cannot adopt provisions which are less stringent than existing regulations. The enforcement action criteria in OAR 340-28-1450 are more stringent and detailed than the federal criteria in 40 CFR §70.6(g). Adopting a reporting time frame of two working days, as specified in 40 CFR §70.6(g)(3)(iv), is not acceptable since it would relax the existing Excess Emissions Rule reporting requirement.

156. P24

340-28-1450(1), Suggest: "Where applicable, the source submitted a description of any emergency which may have caused emissions in excess of [~~technology based standards,~~]the PSEL(s)..."

See Department response to 146.

157. M2, M3, M10

Submittal of excess emissions data and continuous emission monitoring (CEM) data, required by CEM rules, will double reporting requirements for the same information. Different reporting formats makes for an unnecessary burden.

The Department is committed to identifying ways to simplify reporting and recognizes that duplicate reporting is a problem for sources which submit continuous monitoring data. This issue will be addressed in future revisions of the Excess Emissions and Emergency Provision.

158. P10

Current rules to require approval of procedures to minimize emissions during scheduled maintenance events work satisfactorily. The proposed rule to require advance notification adds an unnecessary administrative burden without environmental benefit.

See Department response to 141.

159. P2, P3, P25, P26

340-28-1450(2), Suggest rule be revised to read:
~~Notification occurred immediately pursuant to OAR 340-28-1430(1)(a), (2), or (3).~~ The permittee provided required notice of the excess emissions.
The citations of specific rule subsections found in OAR 340-28-1450(2) are necessary for clarification. The Department proposes no change to the rule.

160. P2, P3, P25, P26

340-28-1450(3), There is no reason to require "complete" information about an event if some of the information is irrelevant to the listed criteria. The information need only be sufficient for the Department to determine whether the relevant criteria are satisfied. Suggest rule be revised to read:

The Department was furnished with ~~complete~~ relevant details of the event, including, but not limited to:

- (a) The date and time of the beginning of the excess emissions event and the duration or best estimate of the time until return to normal operation;
- (b) The equipment involved;
- (c) Steps taken to mitigate emissions and corrective actions taken; and
- (d) The magnitude of emissions and the increase over normal rates or concentrations as determined by continuous monitoring or a best estimate (supported by operating data and calculations).

The word "complete" more accurately captures the intent of the Department to obtain detailed information of the excess emissions event. The Department proposes no change to the rule.

161. P2, P3, P25, P26

340-28-1450(5), This requirement appears to be largely redundant with the requirement to describe the corrective action taken. It is not, in any event, a requirement for establishing an emergency defense, see 40 C.F.R. § 70.6(g), and it will ordinarily be impossible for the permittee to determine in the short time for making a report whether "appropriate" remedial action was taken. Moreover, the term "appropriate" makes this requirement hopelessly vague. Suggest rule be revised to read:

~~The appropriate remedial action was taken.~~

The permitted facility was at the time being properly operated.

This criterion is among those included in the federal emergency defense. See 40 C.F.R. § 70.6(g)(3)(ii).

The intent of the recommended additional language is already captured in OAR 340-28-1450(6), which includes specific details for evaluating whether a plant site was being properly operated at the time of the excess emissions event. The Department proposes no change to the existing language.

162. P2, P3, P25, P26

340-28-1450(6), The deleted provisions are not included in the federal emergency rule and should not be required to establish the emergency defense. Suggest rule be revised to read:

For excess emissions caused by events other than emergencies, ~~T~~the event was not due to negligent or intentional operation by the source. For the Department to find that an incident of excess emissions is not due to negligent or intentional operation by the source, the permittee shall demonstrate, upon Department request, that all of the following conditions were met:

- (a) The process or handling equipment and the air pollution control equipment were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
- (b) Repairs or corrections were made in an expeditious manner when the operator(s) knew or should have known that emission limits were being or were likely to be exceeded. Expeditious manner may include such activities as use of overtime labor or contract labor and equipment that would reduce the amount and duration of excess emissions;
- (c) The event was not one in a recurring pattern of incidents which indicate inadequate design, operation, or maintenance.

The Department believes that OAR 340-28-1450(6) reflects the intent of the federal criterion 40 CFR §70.6(g)(3)(ii) which states "The permitted facility was at the time being properly operated." Thus, excess emissions due to emergency should not be exempted from this rule section. The Department proposes no change.

163. P2, P3, P25, P26

340-28-1460(1), Suggest rule be revised to read:

Effect of an emergency or unavoidable emissions. An emergency or unavoidable emissions constitutes an affirmative defense to noncompliance with ~~technology-based-emission~~ limits if the source meets the applicable criteria specified in OAR 340-28-1450(1) through (6).

As discussed in the Department response to 133, the Department cannot extend the affirmative defense to any classes of excess emissions other than exceedances of technology-based standards due to emergency.

164. P2, P3, P25, P26

340-28-1460(2), Suggest rule be revised to read:

The permittee seeking to establish the occurrence of an emergency or unavoidable emissions has the burden of proof.

See Department response to 133.

RULES APPLICABLE TO SOURCES REQUIRED TO HAVE AIR CONTAMINANT

DISCHARGE PERMITS (340-28-1600 THROUGH 340-28-2000)

PERMIT REQUIREMENTS (340-28-1720)

165. P1
340-28-1720 (5), Rules need to clearly define minimal sources and/or describe how current minimal source permits carry over into the new program.
The existing permitting program for minimal sources will not change. The proposed rules incorporate requirements for the new federal operating permit program and change existing rules where required for consistency for major sources only. Existing rules that still apply to non-major sources and that do not need to be changed because of Title V are not proposed to change. The Department usually issues minimal source permits for sources that emit less than 5 tons of particulate or less than 10 tons of any gaseous pollutant and are not problem sources. The Department feels that there is a misunderstanding on the commentor's part and proposes no change to the rule.

SYNTHETIC MINORS

166. P23
340-28-1740(2), references reporting and monitoring requirements under 340-28-2130(1)(c). The reference to -2130(1)(c) specifies permit requirements rather than reporting and monitoring requirements.
An error in the cross reference will be corrected from OAR 340-28-2130(1)(c) to OAR 340-28-1100 through 340-28-1140 for reporting and monitoring requirements.
167. P29
340-28-1740(3), Sources wishing to be exempt from Title V programs as "synthetic minor sources" must receive their ACDP by the date they would otherwise be required to submit a timely application. Applying for an ACDP permit or permit modification is not sufficient to relieve a source of liability for failing to apply for a Title V permit. As such, (3) needs to be revised to indicate that the source shall obtain an ACDP or modification to an ACDP.
The Department did not realize that owners or operators of synthetic minor sources must receive their Air Contaminant Discharge Permits (ACDPs) by the date they would otherwise be required to submit timely federal operating permit applications. The Department has revised OAR 340-28-1740(3) accordingly.
168. P21
340-28-1740(3), Sources holding an ACDP and electing to become a synthetic minor should be allowed to become a synthetic minor prior to the time a federal

operating permit application is due.

OAR 340-28-1740(3) states "To avoid being required to submit an application for a federal operating permit, a major source, as defined by OAR 340-28-110(56)(b) shall submit a timely and complete application for an ACDP or a modification to an ACDP requesting conditions that would qualify the source as a synthetic minor source before the source would be required to submit a federal operating permit application". Upon receiving comments from EPA Region X, the rule must be changed to read "To avoid being required to submit an application for a federal operating permit, a major source, as defined by OAR 340-28-110(56)(b) shall obtain an ACDP or a modification to an ACDP containing conditions that would qualify the source as a synthetic minor source before the source would be required to submit a federal operating permit application". The EPA stated that "applying for an ACDP permit or permit modification is not sufficient to relieve a source of liability for failing to apply for a Title V permit".

The Department is concerned about the added work for small sources and the program if sources do not take timely advantage of the synthetic minor permitting opportunity. Guidance will be written and workshops will be held to inform synthetic minor sources of their responsibilities. The Department cannot direct a source to become a synthetic minor source since it is a business decision to be made only by the owner or operator. The Department can clearly identify the requirements of both synthetic minor sources and federal operating permit program sources in order for an owner or operator to make a sound business decision. The Department plans to have the synthetic minor permitting underway by the end of 1993, and proposes no change to the rule.

169.

P2, P3, P25, P26

340-28-1740(4), There is no need for these procedures if the source will not be issued a Title V permit. Suggest rule be revised to read:

~~Applications for synthetic minor source status shall be subject to notice procedures that are substantially equivalent to the requirements of OAR 340-28-2280 and 340-28-2300.~~ *The Department agrees with the commentor and has revised OAR 340-28-1740(4) to read "shall be subject to the notice procedures of OAR 340-28-1710."*

170.

If an ACDP source has become a synthetic minor and projects a need to become a federal operating permit source, when is the application due? Can the source continue to operate until final application action?

There are two scenarios which would cause a synthetic minor source to become a federal operating permit program source: 1) use of existing capacity, or 2) construction or modification to increase capacity.

If the owner or operator of a synthetic minor source proposes to use existing capacity, he or she must apply for and obtain a federal operating permit before changing the source's operation from its existing synthetic minor Air Contaminant Discharge Permit (ACDP). The owner or operator of a synthetic minor source can only operate in compliance with its ACDP, and must obtain its federal operating permit before increasing operations above its federally enforceable limit on potential to emit. Permittees should note that the rules contain an eighteen-month timeline for processing applications.

If the owner or operator of a synthetic minor source proposes construction or modification to increase capacity above the federally enforceable limit on potential to emit, he or she must apply for and obtain a modified ACDP which would approve the construction or modification. The owner or operator would then be required to submit a federal operating permit application twelve months after initial startup of the construction or modification. The owner or operator could continue to operate in compliance with the modified ACDP until the federal operating permit was issued. The Department has clarified OAR 340-28-1740 to reflect these requirements.

171.

What if the source becomes "major" through a change in the program rather than a change in the source?

A synthetic minor source that becomes subject to federal operating permit program because of a change in the program will be required to submit a permit application within 12 months of becoming subject to the rule. OAR 340-28-2120(1)(a)(A) applies in this situation. The Department proposes no change to the rule.

172.

If a source applies to change from a synthetic minor to a federal operating permit, how long must the source wait to increase the operations? What is the maximum and the minimum time?

See Department response to 170. The maximum processing time for a federal operating permit is 18 months after the initial round of permits. There is no specified minimum time, but nine months is probably a realistic minimum. The Department will prioritize the review of federal operating permit applications from minor sources.

173.

The rules do not address construction of modifications which are not major. Sources with small changes which force them into the federal operating permit program should be allowed at least the same option of obtaining construction approval and making the change immediately, then filing a federal operating

permit program application within one year after beginning operation under the construction approval.

The Department partially agrees with the commentor. Non-major sources may be allowed to begin construction only after receiving a modified Air Contaminant Discharge Permit. The owner or operator shall submit an application for a federal operating permit within 12 months of initial startup. The new OAR 340-28-1720(2), OAR 340-28-1720(4), and OAR 340-28-1740 (5) address construction for non-major sources that would become federal operating permit program sources because of the construction.

See also Department response to 170.

174.

P21

Synthetic minor sources which exceed the limitation on potential to emit are in violation of their permit, but unless they exceed it to a level which would be major, they cannot be in violation of 340-28-2110 (1)(a). Thus 340-28-1740 (6) is unnecessarily harsh and more restrictive than required by federal law. It should be deleted. Adequate enforcement authority remains for the Department.

OAR 340-28-1740(6) and 340-28-2110(3)(d) state that a synthetic minor source that exceeds the limitations on potential to emit is in violation of OAR 340-28-2110(1)(a), being a major source without a federal operating permit. Synthetic minor sources are major sources by definition because they have the potential to emit at greater than the major source emission thresholds. The only reason that synthetic minor sources are not required to obtain a federal operating permit is because of the federally enforceable limitation on potential to emit. Therefore, if a synthetic minor source exceeds the limitations on potential to emit, it is a major source in violation, even if its actual emissions are less than the major source emission thresholds. It still has the potential to emit at greater than the major source emission thresholds.

The Department may require the synthetic minor source permittee who violates OAR 340-28-2110(1)(a) to submit a federal operating permit application, unless the permittee resolves the problem through the ACDP process. The Department will take appropriate enforcement action against major sources without federal operating permits.

The limitation on potential to emit is the only thing that exempts the owner or operator of a source from the requirement of submitting a federal operating permit application and all of the federal operating permit program requirements. As stated earlier, the decision to become a synthetic minor source and the specific parameters chosen to limit potential to emit are up to the owner or operator. If the owner or operator of a source cannot comply with the limitations on potential to emit, he or she should either not choose to operate the source as a synthetic minor or should get a proper permit before exceeding the synthetic minor limit. The Department proposes no change to the rule.

175.

Please clarify whether a synthetic minor is considered a federal operating permit program source for purposes of 340-28-2200 (2)(a).

OAR 340-28-2200(2)(a) states that no federal operating permit program source may operate after the time that it is required to submit a timely application following the effective date of the program, except in compliance with a permit issued under the federal operating permit program. OAR 340-28-2110(3)(a) states that synthetic minor sources are subject to the Air Contaminant Discharge Permit (ACDP) program. None of the other requirements, operational flexibility, or the permit or application shield will apply to synthetic minor sources.

176.

P28, P2

340-28-1750(7), There is no need to limit the duration of a synthetic minor permit to 5 years, as are federal operating permits. Synthetic minor permits are simply ACDP permits and nothing more.

OAR 340-28-1750(7) states that synthetic minor permits will be issued for no more than 5 years. The Department has limited synthetic minor permits to 5 years because federal operating permits are limited to 5 years and Air Contaminant Discharge Permits (ACDP) are usually issued for 5 years. The Department proposes no change to the rule.

177.

P2, P3, P25, P26

340-28-1740(6), OAR 340-28-2110(1)(a) provides that any major source is subject to the operating permit program rules in OAR 340-28-2100 through 340-28-2300, including the requirement to apply for and obtain an operating permit. Thus, a permittee that, for a single instance, exceeded a permit limit intended to limit its potential to emit would arguably have violated not only its permit, but also the requirement to obtain an operating permit. Limits on potential to emit must be federally enforceable, and it is appropriate that OAR 340-28-1740 provide for federal enforcement of those limits, but a permit violation should not automatically require a synthetic minor source to obtain a federal operating permit. Suggest rule be revised to read:

~~Synthetic minor sources that exceed the limitations on potential to emit are in violation of OAR 340-28-2110(1)(a)~~ **shall be federally enforceable.**

See Department response to 174.

FEES AND PERMIT DURATION (340-28-1750):

178.

P21

In Table 4, "Air Contaminant Sources and Associated Fee Schedule," listing #61 is confusing and should be clarified to specify which contaminants it applies to,

such as "...or 10 or more tons/yr of any single air contaminant listed in Table 2." *Under the existing rules, Air Contaminant Source 61 in Table 4 of OAR 340-28-1750 applies to all air contaminants. The Department proposes no change to the existing rule.*

NEW SOURCE REVIEW (NSR) (340-28-1900 THROUGH 340-28-2000):

APPLICABILITY (340-28-1900):

179. P2, P3, P25, P26

340-28-1900(2), Suggest rule be revised to read:

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 may be subject to other Department rules including ~~Highest and Best Practicable Treatment and Control Required, OAR 340-28-600, Notice of Construction and Approval of Plans, OAR 340-28-800 through 340-28-820, ACDPs, OAR 340-28-1700 through 340-28-1790, Emission Standards for Hazardous Air Contaminants, OAR 340-25-450 through 340-25-485, and Standards of Performance for New Stationary Sources, OAR 340-25-505 through 340-25-545.~~

See Department response to 103.

NSR PROCEDURAL REQUIREMENTS (340-28-1910):

180. P29

340-28-1910(2), A few words appear to be missing from the first sentence in (2)(d). Should the sentence read: "Approval to construct a source under an ACDP"?

The Department agrees that the words "a source under" need to be added and has revised OAR 340-28-1910(2)(d) accordingly.

181. P29, P5

340-28-1910(3)(b)(C), The reference to the "enhanced process" in (3)(b)(C) should be clarified to refer to the "enhanced New Source Review process, including the external review procedures required under OAR 340-28-2280 and OAR 340-28-2300" or alternatively cross-reference OAR 340-28-1910(1)(g).

The Department agrees that the phrase "enhanced process" needs to be replaced with "enhanced New Source Review process, including the external review procedures required under OAR 340-28-2280 and OAR 340-28-2300," and has revised OAR 340-28-1910(3)(b)(C) accordingly.

182.

340-28-1910(3)(b)(I), Requires the submittal of an application for a federal operating permit within one year of initial startup of operation. It is important to retain this provision in the final rule. This will allow sources to respond to the shakedown challenges inherent in any startup situation. The public is fully protected under the review required by other sections of the Act and Oregon rules.

The Department agrees with the commentor. During the year after initial startup, before a federal operating permit application is due, the owner or operator of a federal operating permit source is still required to be in compliance with the terms and conditions of the pre-construction review. The Department proposes no change to the rule.

PSD REQUIREMENTS UNDER NSR (340-28-1940):

183.

P29

340-28-1940(3)(a), The exemption in -1940(3)(a) is too broad and may only exempt "non-PSD" sources from the PSD requirements (OAR 340-28-1940). For example, major sources in nonattainment areas which have potential emissions less than those specified in paragraph (3)(a)(B) must still be subject to the requirements of OAR 340-28-1930. Also, major sources below the size thresholds in paragraph (3)(a)(B) should be eligible to bank emission reduction credits under OAR 340-28-1980.

See Department response to 78.

NSR EXEMPTIONS (340-28-1950):

184.

P29

340-28-1950(1), The exemption for resource recovery facilities is contrary to the requirements of Part D of the Act (§§172 and 173) and to the EPA's regulations in 40 CFR 51.165, and is not approvable.

See Department response to 78.

NSR FUGITIVE AND SECONDARY EMISSIONS (340-28-1990):

185.

P23

340-28-1990, Inclusion of secondary emissions, as defined in 340-28-110(80), as primary emissions is an overly excessive requirement. It would appear, for example, that assessment and quantification of emissions resultant from

combustion of natural gas in a residential area would be required if a new source were installed to provide that gas. Including those emissions is unacceptable ***OAR 340-28-1990, Fugitive and Secondary Emissions, is part of the New Source Review (NSR) rules and only applies to sources that trigger NSR. The definition of secondary emissions would not include emissions from natural gas combustion in a residential area. Secondary emissions would include emissions from mobile sources that support the facility or from off-site support facilities. Also see Department response to 78. The Department proposes no change to the existing rule.***

RULES APPLICABLE TO SOURCES REQUIRED TO HAVE FEDERAL OPERATING PERMITS (340-28-2100 THROUGH 2300):

POLICY AND PURPOSE (340-28-2100):

186. P3, P26, P2
340-28-2100, This section should be revised to include a statement that the Department and the Commission intend that the requirements of the rules applicable to sources needing a federal operating permit be no more stringent than those required by the Clean Air Act and EPA regulations, except where a determination that a scientifically defensible need to protect public health or the environment has been expressly identified.
See Department response to 14.

APPLICABILITY (340-28-2110):

187. P26, P2
340-28-2110(1)(e), This paragraph should restate § 70.3(a)(5) rather than as proposed.
The Department intends to have source categories designated by the Commission after promulgation by the EPA. The Department proposes no change to the rule.
188. P29
340-28-2110(2), The first sentence of -2110(2) is confusing. The sentence could be clarified by rewriting it to provide: "A source with a federal operating permit whose potential to emit later falls below the applicable major source emission rate threshold, and is not otherwise required to have a federal operating permit, may submit a request for revocation of the federal operating permit."
The Department appreciates the clarification and has revised OAR 340-28-2110(2) accordingly.

189. P26, P2
340-28-2110(4)(c), Instead of this language, include a new (1)(g): "Any other source which chooses to apply for a federal operating permit." Delete (4)(c) as it is not an exemption.
See Department response to 292.
190. P3
To capture differences between Title IV and Title V that may not have been identified in rules, and to allow for differences present in future EPA rules that will probably be adopted by reference by the DEQ, the following should be added after 340-28-2110:
FCAA Sections 506(b) and 408(a) state that the requirements of a Title V program will apply to the permitting of affected sources under the acid rain program, except as modified by Title IV.
The Part 70 rules promulgated by the EPA contain references throughout to requirements for affected sources under the acid rain program (Title IV) wherever necessary. The Department has maintained these references and feels that another sentence added to OAR 340-28-2110 is not necessary. The Department proposes no change to the rule.
191. P2, P3, P25, P26
340-28-2110(3), For consistency with proposed OAR 340-28-1740(2). Suggest rule be revised to read:
Synthetic Minor Sources.
(b) The reporting and monitoring requirements of the emission limiting conditions contained in the ACDPs of synthetic minor sources issued by the Department under 340-28-1700 through 340-28-1790 shall meet the requirements of OAR 340-28-2130(3)(1)(c).
See Department response to 166.
192. P2, P3, P25, P26
340-28-2110(3), See P2, P3, P25, P26 comment at proposed OAR 340-28-1740(6). Suggest rule be revised to read:
(d) ~~Synthetic minor sources that exceed the~~ Limitations on a synthetic minor source's potential to emit ~~are in violation of OAR 340-28-2110(1)(a).~~ shall be federally enforceable.
See Department response to 174.
193. P2, P3, P25, P26
340-28-2110(5), See P25 comments on Insignificant Activities. Suggest rule be revised to read:
Emissions units and federal operating permit program sources.

- (a) For major sources, the Department shall include in the permit all applicable requirements for all relevant emissions units in the major source, except emissions units that qualify as insignificant activities, including any equipment used to support the major industrial group at the site.

See Department response to 46.

194.

P29, P5

340-28-2110(7), An ACDP issued under the approved SIP NSR rules cannot change the explicit requirements of a Title V permit unless the Title V permit is revised using appropriate procedures. As such, the proposed rule -2110(7) is not approvable as drafted. Note that this is also in conflict with the requirement of OAR 340-28-2120(1)(a)(B).

a.

340-28-2120, The rule should retain a differentiation between major and non-major sources, i.e., the emissions units covered are more expansive for major sources than for non-major sources. For major sources, states must include in a source's permit all applicable requirements for all relevant emission units. For non-major sources, the permitting authority only must include all requirements applicable to emissions units that cause a source to be subject to the operating permit program. The EPA also authorizes states to exempt non-major sources that would otherwise be subject to the Title V permit requirements, except in the case of sources subject to acid rain requirements, and of solid waste incineration units required to obtain a permit under 129(e) of the Act.

The federal operating permit program is currently only required to apply to major sources as defined by OAR 340-28-110(56)(b). OAR 340-28-2110(4)b exempts non-major sources from the program. In the future, this exemption could be partially or completely removed. The Department intends to consider as part of such future rulemaking what requirements should apply to non-major sources. Until then, the Department proposes no change to the rule.

PERMIT APPLICATIONS (340-28-2120):

195.

340-28-2120(1)(a) does not address the case of a source which is in operation as of the effective date of the program, yet does not need a federal operating permit on that date.

The Department agrees that the case of a source which is in operation as of the effective date of the program but does not need a federal operating permit is not addressed, and has revised OAR 340-28-2120(1)(a) accordingly.

196.

P2, P3, P25, P26

340-28-2120(1), The suggested changes address the problem of sources that are in operation on the date that the program becomes effective but that do not become subject to Title V until a later date. Suggest rule be revised to read:

Duty to apply.

(a) Timely application.

(A) A timely application for a federal operating permit program source that is in operation as of the effective date of the federal operating permit program is one that is submitted 12 months after the effective date of the federal operating permit program in Oregon or on or before such earlier date as the Department may establish. A timely application for a source that is not in operation or that is not a federal operating permit program source as of the effective date of the federal operating permit program is one that is submitted within 12 months after the source becomes subject to the federal operating permit program. P2, P3, P25, P26

The Department believes that the addition of "federal operating permit program" to OAR 340-28-2120 (1)(a)(A) which specifies the requirements of a timely application is redundant. This whole area of the rules, OAR 340-28-2100 through 340-28-2300 only applies to federal operating permit program sources. The Department proposes no change to the rule.

197.

340-28-2120, Reference is made throughout to providing emissions information on all regulated pollutants. The rule should provide for more flexibility, e.g., federal guidance may call for monitoring a surrogate emission considered to be representative of several regulated pollutants; or preliminary discussions of MACT for pulp and paper mills' wastewater treatment facility may consider an option where no monitoring is required, only the installation of stream strippers.

OAR 340-28-2120(3)(c)(A) states that information for all requested alternative operating scenarios identified by the source will include all emissions of pollutants for which the source is major, all emissions of regulated air pollutants and all emissions of pollutants listed in OAR 340-32-130. This rule requires that an applicant submit information on emissions of all regulated pollutants. OAR 340-28-2120(3)(c)(A) or OAR 340-28-2120(3)(n) do not prohibit monitoring of a surrogate parameter or require monitoring that is not required by an applicable requirement. The Department feels that there is a misunderstanding on the commentor's part and proposes no change to the rule.

198.

340-28-2120(1)(a)(A), Should be revised to require that all permit applications be submitted within 12 months after the EPA approves the permit program,

except that the simplest to be prepared should be required within 8 months after that date. Eliminate the discretion to call for applications earlier. If the Department persists in wanting earlier applications, then there should be incentives for earlier submittals, e.g., state owned facilities should be in the pilot program; or if a source volunteers to submit early, then they would not be subject to enforcement action for violations discovered during the application development, if the violation occurred unknowingly.

This comment is inconsistent with the federal requirements to issue one third of the permits in the first twelve months after program approval, based on both the number of permits and the overall permitting workload. The EPA has stated that states will need to require some applications during the EPA program review period. Any source that is out of compliance with any applicable requirement is subject to enforcement action. The Department is not allowed to make deals with sources to relieve them from enforcement action. The Department proposes no change to the rule.

199.

P26, P2

340-28-2120(1)(a)(A), The language "on or before such earlier date as the Department may establish" is far too open ended. The DEQ should either drop this requirement or propose a schedule for requiring applications prior to when required. While it is understood that the FCAA requires some applications prior to the eventual deadline, sources must be assured of some definitive and reasonable time to prepare. Commentor suggests that the rules require the DEQ to provide at least one year notice prior to an application due date.

See Department response to 201.

200.

P29

340-28-2120(1)(a)(A), The requirements for a timely application need to cover sources which become subject at a date sometime after the effective date of the program but which may have been in operation as of the effective date of the program. For example, sources may become subject to the Title V program when the EPA promulgates a MACT standard for that source category. Sources may become subject through an operational change that results in the emission of hazardous air pollutants not previously emitted. Or an existing minor source may expand and become a major source. Such sources cannot submit an application within 12 months after the effective date of the program because they are not subject to the program at that time.

The Department agrees that sources which become subject at a date sometime after the effective date of the program but which may have been in operation as of the effective date of the program need to be added, and has revised OAR 340-28-2120(1)(a)(A) accordingly.

201.

P23, P26, P5, P2

340-28-2120(1)(a)(D), The federal timeline is 6 months prior to expiration, § 70.5(a)(1)(iii). When would the DEQ ever "approve" a longer time line? The DEQ should simply include a time frame and stick to it. P26 suggests 6 months. P23 would support 6 months or a revision to the definition which reflected the Department's ability to specify "such other longer or shorter time..." for submittal.

The federal rules state that a timely application for renewals is one that is submitted at least 6 months prior to the expiration date or such other longer time as may be approved by the Administrator. The rules also state that in no event shall the time be greater than 18 months. The Department is proposing to require applicants to submit permit renewal applications 12 months before permit expiration. Federal operating permits will be much more complex than existing Air Contaminant Discharge Permits. The Department feels that processing renewal applications will take longer than before and proposes 12 months. In a few instances where renewal will be especially complicated, the Department may require an applicant to submit an application 18 months before expiration. The rule has been changed to say that the Department will provide applicants at least six (6) months to prepare an application.

202.

340-28-2120(1)(b), The determination of completeness is left too much to the discretion of the permit reviewer. The focus of the rule is also weighted to what happens when an application is deemed incomplete rather than what how an application will be determined to be complete. Suggest the following conditions: 1) Sources submitting applications that respond to each item required in the application form will be determined to have submitted a complete application; 2) Good faith attempts by the source to provide information should be acknowledged for purposes of completion, as the Department has continuing opportunities to seek additional information; 3) Permit applications are deemed complete sixty days following submission, unless the Department issues written notice otherwise to the source.

OAR 340-28-2120(1)(b) states that a complete application is required to be submitted and specifies criteria for completeness. OAR 340-28-2120(1)(b)(A) also states that "To be deemed complete, an application shall provide all information required pursuant to OAR 340-28-2120(3)." All an applicant needs to do is submit all information required by OAR 340-28-2120(3). The Department believes that the criteria and procedures are straightforward and clearly stated.

The completeness determination is left to the discretion of the permit writer since the permit writer knows what is required in order to draft a permit. A completeness determination checklist is being developed by the Department that

will help both the permit writer who makes the completeness determination and the applicant. The Department proposes no change to the rule. See also Department response to 203.

203.

P7

340-28-2120(1)(b), Proposed regulations must contain provisions for those cases where the Department does not process permits in a timely manner, e.g., completeness determinations made within 60 days, source operations allowed based on permit application if Department doesn't issue permit within 10 months. ***For the application completeness determination, OAR 340-28-2120(1)(b)(D) states "Unless the Department determines that an application is not complete within 60 days of receipt of the application, such application shall be deemed to be complete, except as otherwise provided in OAR 340-28-2200(1)(e)." The Department proposes no change to the rule.***

204.

P26, P5, P24, P2

340-28-2120(1)(b)(C), Delete the first use of "adequate" and substitute "received" for "deemed adequate". The DEQ needs no additional authority implied by the use of an "adequacy" determination. The DEQ should specify in its rule what is required in an application. ***The Department feels that the receipt of "adequate" information is critical in making a completeness determination on an application which triggers the application shield. "Adequate" information is also critical in processing an application for a federal operating permit. The Department proposes no change to the rule.***

205.

P5

Section 340-28-2120(1)(b)(C) & (D) allows the Department to request additional information and set a reasonable deadline for a response. No provision is made for when there may be a disagreement on what is considered a reasonable deadline for response. Suggest a process be developed by which the source can submit an alternate schedule.

OAR 340-28-2120(1)(b)(D) states "If, while processing an application that has been determined or deemed to be complete, the Department determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for a response. If the additional information is not provided by the deadline specified, the application shall be determined to be incomplete, and the application shield shall cease to apply." The Department has 18 months to process applications for federal operating permits from the date of receipt of a complete application. The Department will set reasonable deadlines for applicants to submit additional information in order to complete the draft permit. The

complexity of the required information will be a determinant of what is reasonable, and could vary considerably. Past experience has shown that without a deadline set for submittal of additional information, applicants have delayed the permitting process beyond any reasonable deadline. The Department proposes no change to the rule.

206.

340-28-2120(1)(b), At the discretion of the source, a single facility should be allowed to have single or multiple operating permits. Major sources that obtain more than one permit must still be allowed to average emissions over the entire source and secure similar benefits.

The Department has always written a single permit for a source rather than multiple permits for each emissions unit. The Department feels very strongly that it is critical for compliance that an owner or operator have a single document containing all requirements for all emissions units at a facility. Major elements of the state air program, including Prevention of Significant Deterioration and Plant Site Emission Limits depend on this plantwide approach. The Department proposes no change to the rule.

207.

P7

Proposed regulations do not clearly identify the Department's time intervals for determining application completeness, issuing operating permits or modification to permits.

OAR 340-28-2120(1)(b)(D) states that unless the Department determines that an application is not complete within 60 days of receipt, the application will be deemed complete. OAR 340-28-2200(1)(d) states that the Department will take final action on each permit application (including modifications or renewals) within 18 months after receiving a complete application. The Department proposes no change to the rule.

208.

P21

Rules are not clear on when application is due for federal operating permit for sources who have synthetic minor permit conditions, small sources who wish to add additional capacity or minor sources made major because of program changes.

Requirements for owners or operators of federal operating permit program sources that elect to become synthetic minor sources are specified in OAR 340-28-1740. The Department has made some revisions to this rule based on comments received from the EPA (see Department response to 167).

Requirements for owners or operators of small sources (presumably synthetic minor sources) that wish to become federal operating permit program sources are specified in OAR 340-28-1740. If the increase results from the use of existing

physical capacity and not construction or modification, the owner or operator must receive a federal operating permit before commencing operation without the enforceable condition on potential to emit. If the increase is due to construction or modification, a modified ACDP must be received before commencing construction or modification. The owner or operator must then submit an application for a federal operating permit within twelve months of initial startup.

Requirements for minor sources that become subject to the federal operating permit program because of a program change are specified in OAR 340-28-2120(1)(a)(A). The Department has made some revisions to this rule based on comments received.

209.

P5

The definition [OAR 340-28-110(9)] as worded, and as in 40 CFR 70.2, does not explicitly address mobile source considerations as they might indirectly relate to an affected unit. Such indirect considerations might include a clean fleet program or a vehicle mile reduction (employer trip reduction) program.

Commentor recommends providing for a specific exclusion of these indirect mobile source considerations. These programs are important but do not belong in a Title V operating permit.

The Department has used the federal language in Part 70 in all cases except where the language conflicts with existing Department rules. This was done to maintain consistency with the federal program and to make it easy to determine what changes are needed after any federal program changes are made (see Department response to 292). The federal operating permit program does not exclude mobile sources from being regulated. Fugitive dust from mobile sources contributes the majority of particulate emissions for some sources. Therefore, mobile sources will not be exempted from the federal operating permit program unless they are categorically insignificant.

210.

P5

340-28-2120(1)(b)(F), Submission of a timely and complete application should qualify the source for an application shield, as differentiated from a permit shield, pursuant to 40 CFR 70.7(b).

OAR 340-28-2120(1)(b)(F) states "The source's ability to operate without a permit, as set forth in 340-28-2200(2), shall be in effect from the date the application is determined or deemed to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Department." This provision provides the applicant with an application shield if a complete application is submitted. The Department proposes no change to the rule.

211.

340-28-2120(3)(a)(C), If the proposed rules require an owner or operator with a federal operating permit to test annually for all emissions for which the source has a PSEL, then this provision is more stringent than existing regulations. Commentor is concerned that the proposal would require more testing than is currently required.

All federal operating permit program sources must submit a compliance certification every six months. This certification will tell the Department whether a source is in or out of compliance with all terms and conditions in its permit and how that compliance was determined. OAR 340-28-2120(3)(a)(C) states that "Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to OAR 340-28-2130(3)(c)." It is up to each individual owner or operator to propose a way to determine compliance with his or her permit, OAR 340-28-2120(3)(n), in the permit application. If an owner or operator must source test annually to determine compliance, then he or she should propose to do so and should propose whatever additional measures will enable the compliance certification requirements to be met every six months. This does not necessarily mean additional source testing will be needed. The federal operating permit program can be and is more stringent than the existing regulations in many instances. The federal operating permit program shifts the burden of compliance demonstration to sources rather than the Department. The Department proposes no change to the rule.

212.

P2, P3, P25, P26

340-28-2120(3)(c), For consistency with the insignificant activities provisions of the proposed rules, proposed OAR 340-32-240, and any other provisions that do not require the determination and reporting of emissions. See also P25 comments on Insignificant Activities. Suggest rule be revised to read:

The following emissions-related information for all requested alternative operating scenarios identified by the source:

- (A) Except for emissions from insignificant activities or emissions otherwise not required to be determined and reported to the Department, all emissions of pollutants for which the source is major, all emissions of regulated air pollutants and all emissions of pollutants listed in OAR 340-32-130. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under OAR 340-28-2120(3). The Department shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other

information necessary to collect any permit fees owed.

The Department agrees with the commentor that information to define section 502(b)(10) changes in the initial permit application is not appropriate. The Department proposes to request this information for applications for permit renewals and has revised OAR 340-28-2120(3)(j) accordingly.

213. P2, P3, P25, P26

340-28-2120(3)(c), See P25 comments on Insignificant Activities. The substituted language is taken from 40 C.F.R. § 70.5(c). Suggest rule be revised to read:

- (D) ~~The application shall include a list of all categorically insignificant activities and an estimate of all emissions of regulated air pollutants from those activities which are designated insignificant because of insignificant mixture usage or aggregate insignificant emission levels. The applicant shall list all applicable requirements to which each insignificant activity identified in the permit application is subject and the methodology the applicant will use to ensure the insignificant activity's compliance with all applicable requirements.~~ Information concerning insignificant activities and emissions, as defined in OAR 340-28-110, need not be included in the application. The application, however, shall list the source's insignificant activities that are exempt because of size or production rate.

See Department response to 46.

214. P2, P3, P25, P26

340-28-2120(3)(c), Because PSELS are not required for all regulated air pollutants, see proposed OAR 340-28-1050 (p. A-30), the reference to "all regulated pollutants" should be deleted. There is no federal requirement for hourly emission rate information, and Oregon's PSEL rule requires only that PSELS "be established on at least an annual emission basis that is compatible with source operation and air quality standards." OAR 340-20-310(2) (to be renumbered as OAR 340-28-1020(2), p. A-28). Moreover, there is no public health or environmental justification for a presumption that hourly emission rate information must be provided. Short-term emission rate information should be tailored to the factual and regulatory circumstances of individual sources in the manner allowed by the existing PSEL rule. Suggest rule be revised to read:

- (C) Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method and to establish PSELS ~~for all regulated air pollutants.~~
- (i) ~~An applicant may request that a period longer than hourly be used for~~ The short term PSEL provided that the requested period is shall be consistent with the means for demonstrating compliance with

- any other applicable requirement and the PSEL requirement, and:
- (I) ~~The requested period is~~ **Shall be** no longer than the shortest period of the Ambient Air Quality Standards for the pollutant, which shall be no longer than daily for VOC and NO_x, or
 - (II) ~~The applicant demonstrates that the requested period, if longer than the shortest period of the Ambient Air Quality Standards for the pollutant, is~~ **shall be** the shortest period compatible with source operations.

See Department response to 217.b.

215. P22
340-28-2120(3)(c)(C), The requirement for hourly short term PSEL is inconsistent with the PSEL requirement [340-28-1020], is overly restrictive, and should be deleted.

See Department response to 217.b.

216. P21
340-28-2120(3)(c)(C), The federal program does not require PSEL to be established for 112(r) pollutants. This rule should be modified by deleting the wording "and to establish PSELs for all regulated air pollutants" in order to avoid making it more stringent than federal rules.
The rule referenced by the commentor states that sources shall provide ..."emission rates in tons per year...to establish PSELs for all regulated air pollutants. The PSEL rule (OAR 340-28-1050) excludes 112(b) and 112(r) pollutants from being considered "regulated air pollutants" for purposes of establishing PSELs.

217. P21
In keeping with Oregon law, requirements of the Federal operating permit application should be limited to information required under Federal program. The following should be changed:

a. P21
340-28-2120(3)(c)(C), delete "...and to establish PSELs for all regulated air pollutants."

OAR 340-28-2120(3)(c)(C) states that emission rates supplied in permit applications will be used to establish Plant Site Emission Limits (PSELs) for all regulated air pollutants. OAR 340-28-1050 currently exempts PSELs for hazardous air pollutants unless a permittee chooses to establish PSELs for fee purposes only. The Department proposes no change to the rule.

b. P21
340-28-2120(3)(c)(C)(i), This entire section with its presumption of hourly

periods is substantially more stringent than the Federal requirements. The reporting burden imposed on both the applicant and the Department by this section is unjustified.

OAR 340-28-2120(3)(c)(C)(i) states that an applicant may request that a period longer than hourly be used for the short term PSEL provided that the requested period is consistent with the means for demonstrating compliance with any other applicable requirement and the PSEL requirement, and the requested period is no longer than the period of the shortest ambient air quality standard or the shortest period compatible with source operation. This rule allows for a PSEL for longer than an hourly period and is consistent with OAR 340-28-1020(2). It does not require that an hourly PSEL be established.

The Department has added OAR 340-28-2120(3)(c)(C)(i) in order to clarify what the existing requirements are under the existing rules. The difference in the new federal operating permit program is that applications must be geared toward the short term PSEL period. In the past, the Department has established the short term PSELS, but now these must be established by the applicant.

For many sources in the state, hourly PSELS are already established because standard test methods are used to determine compliance. The standard test methods usually require a one-hour sampling time even though most criteria pollutants have ambient air quality standards with longer averaging times, 3-hour, 8-hour, 24-hour, quarterly, or annual. By establishing hourly PSELS, the Department is allowing a permittee to determine compliance on an hourly basis, rather than an averaging time compatible with the standard. The Department feels that there is a misunderstanding on the commentor's part and proposes no changes to the rule.

c. P21

340-28-2120(3)(c)(C)(ii), This section makes no sense as it stands and should be deleted.

OAR 340-28-2120(3)(c)(C)(ii) states "The requirements of the applicable rules shall be satisfied for any requested increase in PSELS, establishment of baseline emissions rates, requested emission reduction credit banking, or other PSEL changes." This paragraph was added to ensure that all requirements pertaining to PSELS are satisfied. The Department proposes no change to the rule.

d. P21, P22, P23, P25, P2, P3, P26

340-28-2120(3)(c)(D), This section is not required, is substantially more stringent than Federal requirements, and should be deleted. The federal program requires only those "insignificant activities that are exempted because of size, emission levels, or production rate" to be listed in a permit application. 57 Fed. Reg. 32,273 (July 21, 1992); see also 40 C.F.R. § 70.5(c). For other "exemptions which apply to an entire category of activities . . . , the application need not contain any information on the activity." 57 Fed. Reg. 32,273 (July 21, 1992).

See Department response to 46.

e. P21
340-28-2120(3)(c)(F), Estimated efficiency of the control equipment is not required and should be optional.

OAR 340-28-2120(3)(c)(F) is currently required by OAR 340-20-175(1)(f). The Department feels that the estimated efficiency of the control equipment is valuable information needed in a permit application. The Department proposes no change to the rule.

f. P21
340-28-2120(3)(d), This requirement is excessive. Use of a UTM location for all emission units is not always appropriate.

OAR 340-28-2120(3)(d) is currently required by OAR 340-20-030(2)(e) and OAR 340-20-175(1)(c). The EPA requires that the Department submit UTM coordinates for each emissions unit in the annual emissions inventory. UTMs can easily be calculated for each emissions unit if the UTM of one location is known. The Department proposes no change to the rule.

g. P21
340-28-2120(3)(f), These requirements apply only to sources which are not in compliance. Extension of this requirement to sources which are in compliance is more stringent than the federal regulations and should be deleted.

The federal regulations require that monitoring, recordkeeping, and reporting information be included in a permit, regardless of a source's compliance status [40 CFR 70.6(a)(3)]. OAR 340-28-2120(3)(f) requires owners or operators to submit information about their monitoring, recordkeeping, and reporting requirements. This information is required in a permit, so an owner or operator must submit information in its application so that the Department can draft the permit. Even owners or operators that are in compliance are required to submit compliance certification stating that their source is in compliance and that it will continue to comply with all applicable requirements. The Department proposes no change to the rule.

h. P21
340-28-2120(3)(i), The Department already has this information on file. Only those sections containing conditions which are no longer applicable should be required.

Even though each facility's Air Contaminant Discharge Permit (ACDP) is on file, the Department feels that it is critical to require submittal of the whole permit, containing conditions that are no longer applicable, along with the federal operating permit application. If the Department requires the existing ACDP to be part of the federal operating permit application, the facility will be reminded that it must comply with the ACDP, in addition to the information submitted in the federal operating permit application. The Department proposes no change to the rule.

Also see Department response to 52.

i. P21
340-28-2120(3)(j), This requirement does not make sense except in the context of permit renewals with 502(b)(10) changes. It should be clarified as only applicable to renewals.

The Department agrees with the comment that information for implementing section 502(b)(10) changes should only be submitted for permit renewals and has revised OAR 340-28-2120(3)(j) accordingly.

218. P24, P25, P2, P3, P26

340-28-2120(3)(c)(D), Requires applicants to propose some form of compliance demonstration for proposed insignificant activities. Sources should be regulated principally through emission limits. If those limits are exceeded, appropriate enforcement action should follow. Additional constraints are not necessary or appropriate to prevent sources from having the potential to exceed their permit limits. Such additional constraints are especially inappropriate when the emissions in question are insignificant.

suggests: Delete [~~and an estimate ... aggregate insignificant emission levels~~].
Insert: **"However, other information required by this part shall not be required except as provided in this subpart. If requested by the Department, the permittee shall provide an estimate of emissions from any activity described as categorically insignificant. The Department shall request such an estimate if it finds that the emissions from these activities, in addition to other emissions from the stationary source, could make the stationary source subject to different applicable requirements. ..."**

See Department response to 219.

219. P25, P2, P3, P26

Without clarifying language the designation of an activity as insignificant has no effect at all. The rule needs to state clearly that the information required to be included in the permit for insignificant activities is limited to that described in 340-28-2120(3)(c)(D). It also needs to state that no specific requirements (including monitoring, reporting, or compliance demonstrations) for these emissions units will be included in the permit, but that these emissions nonetheless must comply with any applicable requirements.

The Department has amended the proposed rule at OAR 340-28-2120 to clearly state what information is required in a permit application. The permit application must include a list of all categorically insignificant activities, and an estimate of all emissions of regulated air pollutants from those activities which are designated insignificant because of insignificant mixture usage or aggregate insignificant emission levels.

220.

P5

340-28-2120(3)(f), Outlines monitoring, recordkeeping and reporting requirements and appears to favor CEM and/or significant repetitive testing requirements. Explicit mention should be made allowing reasonable available methods, e.g., mass balances and calculations. Failing to allow the normal spectrum of emissions determinations could place an unnecessary burden on all sources, especially small businesses.

OAR 340-28-2120(3)(f) does not mention continuous emissions monitoring or significant repetitive testing anywhere. OAR 340-28-2130(3)(a)(C) states "Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to OAR 340-28-2130(3)(c)." Any monitoring proposed by a source must be consistent with the proposed compliance certification. The Department feels that there is a misunderstanding on the commentor's part and proposes no changes to the rule.

221.

P26, P2

340-28-2120(3)(f)(A), Delete this paragraph and substitute: "Any monitoring recordkeeping or reporting required by 40 CFR Part 64 in effect as of the effective date of this rule."

The enhanced monitoring rules, 40 CFR 64, have not been promulgated, and the Department does not know when they will be. Federal operating permit program sources will be required to comply with the enhanced monitoring rules upon promulgation, OAR 340-28-2120(3)(m)(C)(ii). OAR 340-28-2120(3)(f)(A) states that sources will submit an enhanced monitoring protocol as part of the monitoring, recordkeeping and reporting requirements. The Department proposes no change to the rule.

222.

P26, P2

340-28-2120(3)(f)(E), The phrasing is awkward here: How could a source submit the records of required monitoring information with an application? This requirement is more consistent with a permit condition as opposed to an application requirement as provided at § 70.6(a)(3)(C)(ii)(A).

The Department agrees that the phrasing requiring sources to submit records of required monitoring information with the permit application is awkward, and has revised OAR 340-28-2120(3)(f)(E) accordingly.

223.

P26, P2

340-28-2120(3)(f)(H), Open-ended conditions such as this are strongly opposed and should be deleted from the rule. What the DEQ determines should be

necessary to processing a permit application should be spelled out in the rule. Perhaps the Department intended to propose this language in the context of §70.5(c)(7), which requires other information required to define alternative operating scenarios.

The Department agrees with the commentor and has revised OAR 340-28-2120(3)(f)(H) accordingly.

224.

P2, P3, P25, P26

340-28-2120(3)(j), Section 502(b)(10) changes cannot be defined in the permit application. The reference in the federal rule, 40 CFR § 70.5(c)(7), to "permit terms and conditions implementing § 70.4(b)(12)" refers to the emissions trading provisions of that paragraph, not to the section 502(b)(10) provisions of that paragraph. Suggest rule be revised to read:

~~Additional information as determined to be necessary by the Department to define permit terms and conditions implementing section 502(b)(10) changes.~~

The Department agrees with the commentor that information to define section 502(b)(10) changes in the initial permit application is not appropriate. The Department proposes to request this information for applications for permit renewals and has revised OAR 340-28-2120(3)(j) accordingly.

225.

The requirement to use emissions data that is "more representative" needs better explanation. What if two tests provide different results under the same or similar operating conditions?

The Department has proposed this rule to clarify the level of effort that is expected of sources when they quantify emissions for permit applications, reporting requirements, and compliance determinations. The Department worked closely with members of the Advisory Committee in developing the language for this rule. The intention of this rule is to clarify the federal requirement and not to impose provisions beyond the minimum federal requirements. Many industrial representatives supported the Department's intent to clarify the requirement to quantify emissions. The Department believes that the rule, as proposed, accomplishes this.

In response to the commentor's questions, yes the Department does currently approve monitoring data submitted for compliance purposes. Sources are also currently required to provide support documentation for the derivation of emission factors used in calculating emissions. A source may validate the use of an emission factor by documenting that the emission factor was developed for a similar piece of equipment operating under similar conditions. This requirement does not require sources to conduct monitoring or testing to document the used of emission factors but rather requires sources to provide a brief explanation as to why the particular emission factor chosen is representative of source's

operations. The requirement to demonstrate that the use of an emission factor is applicable and appropriate is just good science and is well within the intent of the minimum federal program.

It is possible, as the commentor suggests, that separate tests conducted under the same operating conditions could provide different results. That is one of the limitations of testing. A source will have to make a decision based on rational science as to which result is more representative and should be used for calculating emissions. In some cases, the results would be averages if they were conducted under the same operating conditions. If a source conducted testing under different alternative operating scenarios which yielded different results, the source would be allowed to use the most represented result for each operating scenario for calculating emissions.

226.

P26, P2

340-28-2120(4)(b), Except for the last sentence, this entire paragraph provides more confusion than clarity. It would not affect EPA approval of the program if the paragraph were deleted. Does the DEQ actually "approve" of monitoring data? If such data is approved, but better data exists, would this clause prevent the source from using the better data?

See Department response to 225.

227.

The requirement to validate emissions factors severely restricts what will be the most popular and efficient method of estimating emissions on applications. For most emissions, the emission factors will be based on very few samples and validation will be difficult. How will a source validate the use of an emission factor? Commentor strongly opposes the interim fee rule concept for "verified" emissions factors in this context. The Department will always have the authority to review emissions factors cited in applications as the basis for quantifying an emission. In doing so, the Department must balance the need for more accurate quantifications with the costs of obtaining the information and the net benefit to the environment for incurring those costs.

See Department response to 225.

STANDARD PERMIT REQUIREMENTS (340-28-2130):

228.

P26, P2

340-28-2130, The proposal omits the provisions of § 70.6(a)(3)(iii)(B), particularly the definition of what is "prompt" reporting of deviations. The department should include in the rule that the requirement for prompt reporting of deviations is conclusively satisfied by reporting excess emissions under OAR

340-28-1440.

The Department agrees with the comment that prompt reporting of deviations required by 40 CFR 70.6(a)(3)(iii)(B) has been omitted and has revised OAR 340-28-2130(3)(c) accordingly.

229.

P2, P3, P25, P26

340-28-2130(3)(a), Permits often require monitoring to begin at dates in the future. This is particularly true of monitoring associated with one-time studies or with monitoring associated with permit limits that will not become effective until some time after the permit is issued. The suggested change gives the Department the necessary flexibility to adjust monitoring requirements to the needs of the permit. Suggest rule be revised to read:

Each permit shall contain the following requirements with respect to monitoring:

- (F) Monitoring requirements shall commence on the date of permit issuance, unless otherwise specified in the permit.

The Department agrees with the commentor and has revised OAR 340-28-2130(3)(a) accordingly.

230.

P26, P2

340-28-2130(3)(a)(A), This entire paragraph is not required by EPA rule to be included in permit applications. The adoption of the Continuous Monitoring Manual and Source Test Manual occurred after the passage of HB 2175 and was therefore subject to the stringency provisions of ORS 468A.310. The Department has yet to provide a scientific determination that such action was necessary to protect human health and the environment. Furthermore, the adoption of the manuals cannot be relied upon to impose those more stringent conditions through federal operating permits.

The Continuous Monitoring Manual and Source Sampling Manual are based on current EPA requirements for monitoring and source testing. The requirements stem from Appendix B and F of 40 CFR 60 for New Source Performance Standards. Adoption of the manuals is not more stringent than what is currently required by the EPA. The Department proposes no change to the rule.

231.

P26, P2

340-28-2130(3)(a)(C), If the list of the types of monitoring methods at the end of this paragraph is not exhaustive (including but not limited to . . .), why include it at all? The EPA language preceding the list sufficiently states what monitoring conditions must be in permits. If the DEQ does not eliminate this last sentence and list, it should include "emission factors" as a prominent monitoring method, as this is distinct from engineering calculations.

OAR 340-28-2130(3)(a)(C) states that the monitoring requirements may include but will not be limited to the list of (i) through (ix). The Department has listed all

currently known methods of monitoring but felt that if other methods became acceptable, the Department could approve the use of them. The Department believes that emission factors could be classified as engineering calculations. The Department proposes no change to the rule.

232. P2, P26

340-28-2130(3)(a)(E), There is no federal requirement or rule for requiring the use of source testing to verify emission factors. In the EPA Hazardous Organic NESHAP rule and in drafts of the Enhanced Monitoring and Continuous Compliance Rule the EPA frequently cites the use of calculations and emission factors for estimating emissions without monitoring. Otherwise this requirement represents an unnecessary and costly workload increase for both sources and the Department.

The Department disagrees with the commentor. OAR 340-28-2130(3)(a)(E) does not require the use or source testing to verify emission factors.

233. P26, P2

340-28-2130(3)(a)(E), This paragraph should be deleted. The interim fee rules were never designed nor intended to be used for purposes of compliance. While we have an interest in making compliance determination and setting fees using the same methods, the methods provided in the interim fee rules are not acceptable.

The Department disagrees with the commentor. If an owner or operator elects to pay emission fees based on actual emissions, the same method used to determine actual emissions should also be used to determine compliance with permit terms and conditions. If the method is not acceptable to determine compliance, then it should not be acceptable to establish actual emissions. The Department will also be proposing emergency fee rules to the Commission on October 28, 1993 for federal operating permit program sources. See Department response to 313. The Department proposes no change to the rule.

234. P2, P3, P25, P26

340-28-2130(3)(b), See P25 note 52. Suggest rule be revised to read:
With respect to recordkeeping, the permit shall incorporate all applicable recordkeeping requirements and require, where applicable, the following:

(C) Recordkeeping requirements shall commence on the date of permit issuance, unless otherwise specified in the permit.

The Department agrees with the commentor and has revised OAR 340-28-2130(3)(b) accordingly.

235. P26, P2

340-28-2130(3)(b)(A)(vii), This entire paragraph should be deleted as it is not

required by EPA rule to be included in a federal operating permit. This is more stringent than required.

Records of quality assurance for continuous monitoring systems are required as part of the Continuous Monitoring Manual. The requirement is not more stringent than required. The Department proposes no change to the rule.

236.

P2, P3, P25, P26

340-28-2130(3)(c), The preceding revisions would give the Department the authority to adjust the dates and timing of reports if the listed dates and times were impractical for any individual applicant. The six-month reporting mandated by the federal rule would be retained. Suggest rule be revised to read:

With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

- (A) Submittal of four (4) copies of reports of any required monitoring at least every 6 months, completed on forms approved by the Department. Unless otherwise authorized by the Department, six month periods are January 1 to June 30, and July 1 to December 31. The reports required by this rule shall be submitted within 30 days after the end of each reporting period, unless the Department authorizes a longer period. Two copies of the report shall be submitted to the Air Quality Division, one copy to the regional office, and one copy to the EPA. All instances of deviations from permit requirements shall be clearly identified in such reports.
 - (i) The semi-annual report shall be due on July 30, or other date specified by the Department, and shall include the semi-annual compliance certification, OAR 340-28-2160.
 - (ii) The annual report shall be due on January 30, or other date specified by the Department, and shall consist of the annual reporting requirements as specified in the permit, the emission fee report; the emission statement if it is applicable, OAR 340-28-1520; the excess emissions upset log, OAR 340-28-1440; and the semi-annual compliance certification, OAR 340-28-2160.

The Department agrees with the commentor and has revised OAR 340-28-2130(3)(c)(A) accordingly.

237.

P2, P3, P25, P26

340-28-2130(3)(c), See the previous P25 notes on this section. Suggest rule be revised to read:

- (D) Reporting requirements shall commence on the date of permit issuance, unless otherwise specified in the permit.

The Department agrees with the commentor and has revised OAR 340-28-2130(3)(c) accordingly.

238. P21
340-28-2130(3)(c)(A), These deadlines should be subject to Department discretion for those sources whose operation is not compatible with these dates and time periods.
OAR 340-28-2120(3)(c)(A) is currently required by OAR 340-20-046(2) for submittal of reports every six months from January through June and from July through December. The Department proposes no change to the rule.
239. P26, P2
340-28-2130(3)(c)(B), This entire paragraph should be deleted as it is not required by EPA rule to be included in a federal operating permit. This is more stringent than required.
The OAR 340-28-2130(3)(c)(B) requirement to submit source test reports within 30 days after the source test is mandated by the Source Sampling Manual and has been a requirement in existing ACDPs. Therefore, this is not a new requirement. Some sources are required to submit monitoring source test results by the fifteenth day of the subsequent calendar month. The Department proposes no change to the rule.
240. P29
340-28-2130(3)(d), The phrase "or if determined by the Department to be necessary to determine compliance with applicable requirements" must be added to -2130(1)(d) to ensure that the Department can fulfill its obligation to "fill the gaps" of applicable requirements that do not include sufficient monitoring requirements.
The Department agrees that "or if determined by the Department to be necessary to determine compliance with applicable requirements" should be added to OAR 340-28-2130(3)(d) to fill the gaps of applicable requirements that do not have sufficient monitoring requirements, and has revised OAR 340-28-2130(3)(d) accordingly.
241. P2, P3, P25, P26
340-28-2130(3)(d), This authority is not required by the federal rule, and only the vaguest of criteria are specified for its exercise. The Department already has broad authority to include monitoring requirements in permits. If additional authority is needed to protect human health or the environment, the Commission should adopt rules in the future that are addressed to the specific problems that may be identified. Suggest rule be revised to read:
~~The Department may incorporate more rigorous monitoring, recordkeeping, or reporting methods than required by applicable requirements in a federal operating permit if they are contained in the permit application or are needed to protect human health or the environment.~~

The criteria for incorporating more rigorous monitoring, recordkeeping, or reporting methods is clearly specified in OAR 340-28-2130(3)(d). The Department has made some revisions to this rule based on comments received from the EPA (See Department response to 240).

242. P2, P3, P25, P26
340-28-2130(13), See P25 comments on Insignificant Activities. Suggest rule be revised to read:

The Department may not require in the permit any terms or conditions regarding insignificant activities or emissions. Nonetheless, the permittee shall ensure that all activities and emissions comply with all applicable requirements.

The Department disagrees with the commentor and maintains that the permit must contain both emission limitations and standards, including those activities designated as insignificant. This will ensure compliance with all applicable requirements at the time of permit issuance. The Department proposes no change to the rule.

STATE ENFORCEABLE REQUIREMENTS (340-28-2140) AND FEDERALLY ENFORCEABLE REQUIREMENTS (340-28-2150):

243. P26, P24, P2
340-28-2140 and 340-28-2150, These two sections should be redrafted to accurately reflect § 70.6(b). First, federally enforceable terms and conditions in a federal operating permit are enforceable by the EPA and citizens, and need not be labelled as federally enforceable as this will only complicate the permit. However, if the requirements are not federal requirements, then they must be labeled as such and are not subject to any requirements of the federal operating permit program (except for the requirement of § 70.6(b)(2) that they be labelled as not federally enforceable). Moreover, because the state-only requirements are not federally-enforceable, they are not subject to EPA enforcement or citizen suits.

The Department believes that it would be too complicated and confusing to have state-only enforceable conditions subject to different procedures for standard permit requirements, compliance requirements, permit shields, permit issuance, permit renewal and expiration, operational flexibility, administrative permit amendments, permit modifications, reopening, and public participation. Therefore, the Department has made state-only enforceable conditions subject to these federal requirements under Part 70.

An example of the possible confusion caused by exempting state-only enforceable conditions from federal requirements under Part 70 would be for excess emissions reporting. If the Department has proposed a State

Implementation Plan (SIP) revision that contains new rules adopted by the Commission that has not yet been approved by the EPA, the new rule would be a state-only enforceable condition. The old rule in the EPA-approved SIP is the federally enforceable rule. Owners or operators would be required to submit two excess emissions reports, one for exceedances of the state-only enforceable condition and another for the federally enforceable condition. This requirement would be disastrous. The Department proposes no change to this portion of the rule.

The Department does agree that state-only enforceable conditions must be exempt from EPA and affected state review. In addition, state-only enforceable conditions are not subject to citizen lawsuits. The Department has revised OAR 340-28-2140 accordingly.

244. P26, P24, P2

340-28-2140, Are state-enforceable requirements covered under the permit shield if they are not also federally-enforceable?

If the Department exempted state-only enforceable conditions from any requirements of the federal operating permit program (except for the requirement of Statute 70.6(b)(2), then the state-enforceable conditions would not be covered under the permit shield. Since the Department has exempted state-enforceable conditions from only EPA and affected state review, these conditions shall be covered under the permit shield.

COMPLIANCE REQUIREMENTS (340-28-2160):

245. P2, P3, P25, P26

340-28-2160, This provision is not required by the federal rule. Deviations should be addressed under the Department's excess emission rules at proposed OAR 340-28-1400 through 340-28-1460. Suggest rule be revised to read:

All federal operating permits shall contain the following elements with respect to compliance:

(6) Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(c) A requirement that the compliance certification include the following:

(D) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with OAR 340-28-2130(3); and

~~(E) Any deviations from permit requirements, the probable cause of such deviations, and any corrective actions or preventive measures taken; and~~

The Department disagrees with the commentor. 40 CFR 70.6(a)(3)(iii)(B) states "Prompt reporting of deviations from permit requirements, including those attributable to upset conditions, as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The permitting authority shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements."

The Department also received a comment on this portion of the OAR from the EPA (see comment 134). There are deviations from permit requirements that may not cause excess emissions so would, therefore, not be reported. The Department has added the federal language of 40 CFR 70.6(a)(3)(iii)(B) but has excepted deviations that cause excess emissions since these are reported under OAR 340-28-1140. The Department has revised OAR 340-28-2130(3)(c) accordingly.

246. P26
340-28-2160(7), Open-ended conditions such as this are strongly opposed and should be deleted from the rule. What the DEQ determines should be necessary to processing a permit application should be spelled out in the rule. This is more stringent than required.
The Department agrees with the comment that OAR 340-28-2160(7) is too open-ended and has revised OAR 340-28-2160(7) accordingly.

GENERAL PERMITS (340-28-2170):

247. P29, P24
340-28-2170, Several minor changes need to be made to the General Permits provision. First, the regulation must be revised to require that general permits shall identify criteria by which sources may qualify for the general permit and that the permitting authority grant the terms and conditions of the general permit to sources which qualify. Second, in subsection 2(c), it is unclear what is meant by the term "problem source."
Rule language will be revised to make criteria for applicability clear and to ensure that sources that meet the criteria are granted permits. The wording will be changed as suggested.

248. P28, P31
M1, M5, M6, M7, M8, M9, M11, M14, M16, M17, S1, P9, P16, P17, P19, P20, P27,
General permits should not be allowed or should at least be confined to small nonhazardous air pollution sources or where no harm to human health is

expected. Proposed rules allow for case-by-case state standards for HAP sources if no federal standards are available. Since there can be state standards in the absence of federal standards, general permits for hazardous sources should not be allowed.

The federal requirements allow states flexibility in determining when to issue general permits. The issue of which sources should be issued general permits in Oregon was brought before the Advisory Committee. After several discussions, the Committee reached consensus on issuing general permits only to those existing major sources for which there are no applicable emissions limitations, i.e. no state or federal MACT standard has been promulgated and the EPA has not missed a promulgation deadline. These general permit provisions will not apply to new major HAP sources because the state is required to either apply a new source MACT promulgated by the EPA, or develop a state MACT on a case-by-case basis. The rule language has been revised to clarify this.

249.

P2, P3, P25, P26

340-28-2170(2), Because a source is not shielded from an enforcement action if the source is later determined not to qualify for the general permit, OAR 340-28-2170(3), the criterion "not considered a problem source" is simply too vague. What is a "problem source"? How will a source who applies for a general permit be able to determine whether it is a "problem source" or whether it is "considered" and "problem source"? The suggested alternative language allows "problem sources" to be excluded by the more precise method of a rule or the terms of the general permit. Suggest rule be revised to read:

The owner or operator of an existing major HAP source which meets all of the following criteria may apply to be covered under the terms and conditions of a general permit:

(c) not considered a problem source not excluded by rule or the terms of the general permit from coverage under the general permit.

See Department response to 247.

PERMIT SHIELD (340-28-2190):

250.

S1, P12, P20

Federal regulations do not require permit shields and would therefore oppose inclusion of permit shields provisions in permits.

Oregon Revised Statute states that rules adopted by the commission will include provisions that deem compliance with a permit to be in compliance with other applicable provisions of the Clean Air Act if they are within budget constraints. If the Department receives the funding authority needed in SB86, then the permit shield must be provided.

The Department is proposing to issue permit shields that provide that compliance with the permit will be deemed compliance with other applicable provisions of the federal Clean Air Act Amendments that relate to the permittee. If the permittee is not in compliance with its permits terms and conditions, the shield does not provide protection from enforcement. The shield applies only to applicable requirements that are listed in the permit or are listed in the demonstration of non-applicable requirements. The source is not shielded from applicable requirements that were omitted from the permit or from the demonstration. The public will have the opportunity to review all applicable requirements during the public notice period. The shield does not apply to new applicable requirements that are adopted during the life of the permit nor does it prohibit the Department from reopening the permit for exceedances of the ambient air quality standards. The Department feels that its ability to take enforcement actions for noncompliance and its ability to reopen permits is adequate to require compliance even with a permit shield in place. The Advisory Committee did reach consensus on allowing for permit shields if adequate funding is obtained, which will be the case. The Department proposes no change to the rule.

251. P5
Permit Shield, Recommend the discretion in not having a permit shield should be deleted, i.e., permit shields should be allowed as the program must meet minimum program resource requirements so that this option would not add unplanned elements to the workload.
See Department response to 250.

252.
340-28-2190(1)(a) & (b), The "or" at the end of (a) should be changed to "and" so that both applicable and nonapplicable requirements are clearly identified.
The federal language states "or." The Department proposes no change to the rule.

PERMIT ISSUANCE (340-28-2200):

253. P29
340-28-2200(1)(a)(E), The clause "or such earlier time as agreed to with the Department" which has been added to -2200(1)(a)(E) is not approvable. The EPA does not have the authority to shorten its statutory review period and thereby effectively change the date for citizen petitions to the EPA. The same change was made to OAR 340-28-2300(3)].
The only instance when the Department proposes simultaneous EPA and public review would be when no comments have been received on the draft permit.

Therefore, the proposed permit that the Department sends to EPA would be exactly the same as the draft permit. In most cases, this would occur on fairly simple, non-controversial permits, such as general permits or hollow permits. The public notice would alert the public to a possible simultaneous review so they would know that the EPA 45-day review may begin at an earlier time. If the Department receives numerous comments on a draft permit, revisions may be required before sending the proposed permit to the EPA. If this is the case, the public would be notified of changes to the draft permit in the hearings officer's report. In cases where EPA objects to a permit, the public would not know when the EPA review ends since there is no requirement to notify the public when a proposed permit is changed by the Department. The Department does not feel that this provision is not approvable since it says "or such earlier time as agreed to with the Department." The EPA has the option to not agree to an earlier time. The Department has made a clarification to the rule and hopes to work out an implementation agreement with the EPA to facilitate this efficiency measure.

254.

P26, P2

340-28-2200(1)(a)(E), The proposal is correct in that the forms of a permit are, in order: (1) a draft permit (subject to public comment, etc.); (2) a proposed permit (for EPA and affected state review); and (3) a final permit. While this is not explicitly stated in the rule, it is the proper approach. It may help to more clearly reveal the stages of permit processing somewhere in the rule. *The terms draft permit, proposed permit, and final permit are contained in the definition section, OAR 340-28-110. Guidance being developed for owners or operators of sources will be used to clarify the stages of the permitting process. The Department proposes no change to the rule.*

255.

Please clarify whether a synthetic minor is considered a federal operating permit program source for purposes of 340-28-2200 (2)(a). *OAR 340-28-2200(2)(a) states that no federal operating permit program source may operate after the time that it is required to submit a timely application following the effective date of the program, except in compliance with a permit issued under the federal operating permit program. OAR 340-28-2110(3)(a) states that synthetic minor sources are subject to the Air Contaminant Discharge Permit (ACDP) program, except for the reporting and monitoring requirements of the federal operating permit program. None of the other requirements, operational flexibility, or the permit or application shield will apply to synthetic minor sources.*

256.

P2, P3, P25, P26

340-28-2200(2)(a), The reference in the federal rule, 40 CFR § 70.7(b), to

"§ 70.4(b)(12)(i)" was to Section 502(b)(10) changes, not to off-permit changes. Unlike Section 502(b)(10) changes, off-permit changes are consistent with the permit and do not need the protection of this paragraph. Accordingly, the reference should be to OAR 340-28-2220(3). Suggest rule be revised to read: Except as provided in OAR 340-28-2200(2)(b)(3), and OAR 340-28-2250(2)(d), no federal operating permit program source may operate after the time that it is required to submit a timely and complete application after the effective date of the program, except in compliance with a permit issued under a federal operating permit program. *The Department partially agrees with the commentor. 40 CFR 70.7(b) states that "Except as provided in the following sentence, §70.4(b)(12)(i), and paragraphs 70.7(e)(2)(v) and (3)(v) of this section...." The federal reference to "the following sentence" refers to OAR 340-28-2200(2)(b) and OAR 340-28-2200(2)(a) clearly states this and the Department proposes no change to this portion of the rule. The Department agrees that the cross reference to section 502(b)(10) changes has been omitted but the cross reference should be to OAR 340-28-2220(3), not OAR 340-28-2200(3). The Department shall revise OAR 340-28-2200(2)(a) accordingly.*

OPERATIONAL FLEXIBILITY (340-28-2220):

257.

S1, P24

Commentor opposes allowing any increase of regulated pollutants to qualify as an off-permit change.

The rules define off-permit changes as those changes that do not violate any existing permit term or condition. The Plant Site Emission Limit is a permit term that would be violated if the source increased its approved emissions. Therefore, no increases of regulated pollutants above permit levels are allowed as an off-permit change. The Department proposes no change to the rule.

258.

340-28-2220, Clarify what constitutes a valid alternative operating scenario: what types of activities fall under this definition? For instance, a facility has air preheaters on each boiler. The facility's ability to comply with the PSEL is not affected by the operation of the preheaters (or lack of). Does changing from using to not using the air preheaters constitute an alternative operating scenario?

OAR 340-28-2220(1)(a) states that: "Alternative operating scenarios mean the different equipment configurations or process parameters under which a source can operate that:

- (A) require different terms and conditions in the permit to determine compliance, or*
- (B) emit different regulated air pollutants;"*

If a source must propose a different method of compliance demonstration for an operating scenario, then the scenario needs to be defined in the permit application. If a scenario emits different regulated air pollutants, then the scenario needs to be defined in the permit application. The requirement of listing alternative operating scenarios in the permit application will impact a source's operation, because only scenarios listed in the permit are allowed. A scenario that is not approved in the permit is not allowed until the owner or operator submits a permit modification application for additional alternative operating scenarios and the scenarios are approved by the Department.

Each federal operating permit program source will have different Plant Site Emission Limits (PSEL) for each alternative operating scenario identified in the permit, not just a plant wide total. One alternative operating scenario may have a higher PSEL than another scenario. Therefore, operation of certain equipment will indeed affect the ability of a source to comply with its PSEL. The Department proposes no change to the rule.

259.

M2, M3, M10

340-28-2220(2), Off-permit change rules are confusing. Rule requiring off-permit changes to be included in operating permits at renewal should be deleted.

Off-permit changes are an optional provision of the federal operating permit program, and the Department will not require owners or operators to use off-permit changes. Until the Department actually drafts and issues a federal operating permit, it will be difficult to define off-permit changes with any more specificity than is currently given. Notices of off-permit changes are required by the federal regulations to be attached to the federal operating permit and incorporated upon renewal if the change is still applicable. If incorporation did not occur, the permit would not be an accurate reflection of the source. The Department has revised OAR 340-28-2220(2) accordingly.

260.

P2, P3, P25, P26

340-28-2220(2)(a), See P25 comments on Off-Permit Changes. Suggest rule be revised to read:

Off-permit changes mean changes to a source that:

(D) meet all applicable requirements; and

(E) do not violate any existing permit term or condition; ~~and~~

~~(F) may result in insignificant changes of emissions of regulated air pollutants not otherwise regulated under the permit or may result in insignificant changes as defined in OAR 340-28-110(50).~~

The Department disagrees with the commentor. 40 CFR 70.4(b)(14)(iv) states that "The permittee shall keep a record describing changes made at the source that result in changes of emissions of regulated air pollutants subject to an

applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes." The Department also received a comments on OAR 340-28-2220(2)(a)(F) from the EPA stating that all emissions of regulated pollutants not otherwise regulated under the permit must be reported as off-permit changes, not just insignificant changes of emissions. The Department has revised OAR 340-28-2220(2)(a)(F) accordingly.

261.

P29

340-28-2220(2)(a)(F), the phrase "insignificant changes of emissions" should be replaced with "changes less than the significant emission rates in OAR 340-28-110(83) and the de minimis levels in OAR 340-32-4500, Table 3." Also, the reference for "insignificant changes" should be to OAR 340-28-110(49).

The Department disagrees with the commentor, and believes that revision of the insignificant change provisions of Division 28 to incorporate the suggested quantitative benchmarks would remove both utility and compliance assurance from the concept of insignificant changes. The Department has revised the concept of insignificant changes to provide for changes to either a significant or an insignificant activities. This modification was effected after input, discussion, and consensus by the Industrial Source Control Advisory Committee, and the Department is confident that the revision will result in greater usability coupled with greater assurance that air quality will be maintained.

The reference to (49) has been deleted.

262.

P25, P2, P3, P26

340-28-2220(2)(a)(F) would limit off-permit changes to those changes that "may result in insignificant changes of emissions of regulated air pollutants not otherwise regulated under the permit or may result in insignificant changes as described in OAR 340-28-110(50) [sic]." Similarly, proposed OAR 340-28-2220(2)(c) would require permittees to keep a record of off-permit changes that result in "insignificant emissions." It is not clear what emissions changes would qualify as "insignificant," but the federal rule requires no such limit. See 40 C.F.R. § 70.4(b)(14). In fact, this language blurs the distinction between insignificant changes and all other off-permit changes. Consequently, this provision contravenes ORS 468A.310. Moreover, no such limit is warranted. The other provisions of proposed OAR 340-28-2220(2)(a) would preclude off-permit changes that would, among other things, violate PSELs or other permit conditions, that would constitute Title I modifications, or that would not meet all applicable requirements. These limits, together with the procedural requirements that apply to off-permit changes, ensure that any change in emissions as a result of an off-permit change would have no significant effect on air quality. Suggest that 340-28-2220(2)(a)(F) and the word "insignificant" in OAR 340-28-2220(2)(c) be deleted.

See Department response to 266.

263. P29
340-28-2220(2)(b), The phrase "under OAR 340-28-110(49)" should be added to the end of the first sentence. In addition, in subsection (2)(c), the phrase "insignificant" must be deleted because a source must keep an on-site record of all off-permit changes resulting in emissions, not just those resulting in insignificant emissions.

The Department agrees that "under OAR 340-28-110" should be added to the end of the first sentence of OAR 340-28-2220(2)(b) and that "insignificant" should be deleted, and has revised OAR 340-28-2220(2)(b) and (2)(c) accordingly.

264. P21
Operational flexibility provisions seem unnecessarily burdensome and paperwork intensive, for example:

a.
340-28-2220(2)(b)(C), (3)(b)(C), What is the meaning of the phrase "within the PSEL"? The concept of the PSEL is to lump together multiple similar emissions at the site and to treat them as a single emission for compliance purposes. Requirements to quantify changes in emissions under the PSEL are not in keeping with the purpose of the PSEL and should be dropped.

OAR 340-28-2220(2)(b)(C) states that notices of off-permit changes must contain "any change in emissions within the PSELs." Only changes that result in emissions that are within the PSEL are allowed as off-permit. Changes resulting in emissions greater than the PSEL would require significant permit modification procedures. OAR 340-20-310(3) states that mass emission limits may be established separately within a particular source for process emissions, combustion emissions, and fugitive emissions. The Department agrees that some similar emission points can be lumped together and treated as a single emissions unit for compliance purposes as allowed by the definition of "emissions unit." Many existing permits contain separate PSELs for single emissions units that make up the total PSEL for a facility. The Department proposes no change to the rule.

b.
340-28-2220(2)(c), The requirement to record insignificant changes in emissions should be deleted. It is not federally required and has the potential to overwhelm the source and the Department in irrelevant paperwork.

See Department response to 265.

265. P2, P3, P25, P26
340-28-2220(2)(c), This provision does not follow the federal rule. See 40

C.F.R. § 70.4(b)(14)(iv). The deleted language is addressed in the definition of "insignificant change"; changes of the sort described are by definition significant. Suggest rule be revised to read:

The permittee shall keep a record describing off-permit changes made at the facility, except insignificant changes, and the emissions resulting from those changes, that result in insignificant emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit.

The Department agrees with the commentor and has revised OAR 340-28-2220(2)(c) accordingly.

266. P22

340-28-2220(2)(c), The requirement for the permittee to maintain records of off-permit changes made that result in insignificant changes is again contrary to the concept of insignificant changes. Quantifying and reporting of insignificant changes should not be a requirement. Delete this section.

The Department has revised the concept of insignificant changes at 340-28-110(49) to exempt all three categories (categorically insignificant activities, insignificant mixture usage, and aggregate insignificant emissions) from the monitoring and reporting requirements associated with Division 28.

267. P2, P3, P25, P26

340-28-2220(2)(e), See P25 comments on Off-Permit Changes. Suggest rule be revised to read:

~~Off permit changes shall be incorporated into the permit upon permit renewal.~~
See Department response to 268.

268. P25, P5, P2, P3, P26

Subsection 340-28-2220(2)(e) would require all off-permit changes to be incorporated into the permit upon permit renewal. This requirement is not contained in the federal rule (see 40 C.F.R. § 70.4(b)(14)), and would be unduly burdensome to industry and the Department for insignificant changes that do not require notice or recordkeeping. Moreover, it would not be appropriate to include temporary off-permit changes or off-permit changes that became obsolete in permit renewals. The reference in the EPA's operating permit rule preamble to incorporation of these changes at the time of permit renewal was not intended to require incorporation of all off-permit changes, only those relevant to the permit renewal. (See 57 Fed Reg 32,269 (July 21, 1992).) The permit application rules adequately address those circumstances, however. Suggest that 340-28-2220(2)(e) be deleted.

The Department has revised OAR 340-28-2220(2)(e) to read as follows: "Terms and conditions that result from off-permit changes shall be incorporated into the permit upon permit renewal, if applicable." If off-permit changes that are still

applicable were not incorporated into a permit upon renewal, the permittee would be out of compliance with its renewed permit. The Department will retain OAR 340-28-2220(2)(e) and will revise OAR 340-28-2120(3) to make it clear to permittees what is required for a permit renewal.

269.

340-28-2220(3), Section 502(b)(10) changes must be allowed. Under 40 CFR 70, a permitted source must be allowed to make changes which do not constitute a modification and do not cause emissions to exceed limits in the permit. Permittees should also be allowed to shift emissions from one point to another within the facility, subject to 7 day notice. Permittees must also be allowed to obtain an emission cap and engage in emissions trading in those situations where an emissions cap is established.

OAR 340-28-2220(3) allows for section 502(b)(10) changes which can contravene an express permit term. Trading under a federally enforceable emissions cap is allowed by OAR 340-28-2130(9) if the application requests such trades.

The Department has tried to simplify and clarify the federal operating permit program as much as possible but the federal operating permit program is complicated in itself. One of the requirements of Oregon Revised Statute 468A.310(3)(a) states that to the maximum extent possible, rules adopted by the commissions will include: "Streamlined procedures for expeditious review of permit actions in accordance with section 502(b)(6) of the Clean Air Act." The Department has tried to incorporate streamlined procedures everywhere they are possible. In working with the pilot group of sources to draft the first federal operating permits, the Department is confident that even more streamlined procedures will be developed. The Department agrees with the comment that the universal goal of the environmental groups, industry, and the Department is to develop a program that is successful and proposes no change to the rule.

270.

P2, P3, P25, P26

340-28-2220(3)(b), These provisions are not required by the federal rule. Moreover, neither the nature of the verification that is intended nor the purpose that it would serve is clear, particularly given the absence of a permit shield. Suggest rule be revised to read:

Section 502(b)(10) changes can be made at any time. Sources shall submit a minimum 7-day advance, written notification to the Department and the EPA. The written notice shall contain:

(D) any permit term or condition that is no longer applicable as a result of the change; and

(E) any new terms or conditions applicable to the change;

~~(F) verification that the change does not cause or contribute to a violation~~

- of any applicable requirements;
- ~~(G) verification that the change does not cause or contribute to an exceedance of the PSEs; and~~
- ~~(H) verification that the change is not a Title I modification.~~

The Department disagrees with the commentor. 40 CFR 70.4(b)(12)(i)(A) states that "For each such change, the written notification required above shall include a brief description of the change within the permitted facility, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change."

The Department believes that verification of whether changes meet the criteria of section 502(b)(10) is part of the process an owner or operator must go through before deciding to make the change since these changes are not shielded. The Department has added rule language which clarifies what type of verification is needed.

271.

Alternative control determinations for SIP equivalency should be allowed. This would allow sources to install different methods of control from those called for by the SIP, if they can demonstrate equivalent stringency of the alternative controls.

Alternative control determinations are not part of this rulemaking. The Department proposes no change to the rule.

272.

P10

Commentor supports the Department's proposal to provide operational flexibility, including the permit shield.

The Department agrees with the commentor and proposes no change to the rule.

273.

P10

Relationship between insignificant activities and off-permit changes is not clear in the rules.

The Department has revised the concept of insignificant change to include changes to both significant and insignificant activities. These insignificant changes will be considered off-permit changes, and are subject to the requirements and exemptions from monitoring and reporting described in 340-28-2220.

274.

P2, P3, P25, P26

340-28-2220(3)(d), The federal rule does not require this. Moreover, it would be inappropriate to incorporate these changes if they were temporary, became obsolete or illegal before the next permit renewal, or were superseded by subsequent changes. Suggest rule be revised to read:

Section 502(b)(10) changes shall be incorporated into the permit upon permit renewal.

The Department disagrees with the commentor. See Department response to 268. This same response applies to section 502(2)(b)(10) changes. The Department has revised OAR 340-28-2220(3)(d) accordingly.

ADMINISTRATIVE PERMIT AMENDMENTS (340-28-2230):

275. M1, M5, M6, M8, M9, M11, M14, M15, M16, M17, P4, P9, P20, P27, P28
The public should participate in a determination of where the "corrections" result in actual emission increases and whether misinterpretations are really "minor" before the administrative amendment process is applicable.

The Department believes that the permit revisions allowed under administrative permit amendments are indeed administrative. Changes made under the category of administrative amendments, OAR 340-28-2230, (i.e., name changes, typographical corrections, more frequent monitoring, etc.) are those changes which do not require public notice. That is why the changes are called administrative. Changes that require technical review would not fall into this category. A preconstruction review permit authorized under the existing Air Contaminant Discharge Permit program can be incorporated as an administrative amendment only if the required procedures for public notice were followed when issuing the preconstruction review permit and no significant changes have occurred. The Department proposes no change to the rule.

276. S1, P17
Oppose use of administrative amendments for anything but actual administrative amendments.
See Department response to 275.

277. P2, P3, P25, P26
340-28-2230(1)(f), If the circumstances are genuinely "extenuating," there is no reason to limit the paragraph to a single change. Suggest rule be revised to read: Allows for a ~~one-time~~ change in the date for reporting or source testing requirements for extenuating circumstances;
The Department agrees with the commentor and shall revise OAR 340-28-2230(1)(f) accordingly.

278. P26
340-28-2230(1)(h), The last phrase in this paragraph should be amended to also reference construction permits process under OAR 340 Division 32 that have undergone the substantial equivalent of federal operating permit procedures.

Thus, an ACDP issued for a new HAP source using the full procedures could be administratively amended into a federal operating permit.
See Department responses to 99, 108, 110, 111, and 112.

279. P29, P5
Proposed rule 340-28-2230(1)(j) is not approvable since neither the EPA nor the public had an opportunity in the Title V issuance process to review or object to state-only provisions. As such, it cannot be incorporated into the Title V permit through the administrative permit amendment process.
The Department agrees that the EPA and the public will not have the opportunity to review or object to state-only conditions in a federal operating permit and that therefore, state-only requirements cannot be incorporated into a federal operating permit administratively. The Department has revised OAR 340-28-2230(1)(j) accordingly. The Department believes that state-only enforceable conditions will be changed to federally enforceable conditions as a permit reopening, after receipt of notification of State Implementation Plan approval from the EPA.

280.
As a minimum the following should be excluded from review as modifications: 1) increases in hours of operation, 2) increases in capacity utilization, and 3) changes in raw materials that do not involve a capital expenditure. Consideration should also be given to incorporating the core elements of the WEPCO rule into the exclusions section.
The Department strongly disagrees that the following be excluded from review as modifications: increases in hours of operation, increases in capacity utilization, and changes in raw materials that do not involve a capital expenditure. All of these changes would result in potentially significant increases in emissions which would require review as a significant permit modification. Most pollution control projects would require modification to the compliance certification and would also be considered a significant modification. The court decision for WEPCO only applies to electric utility units that have triggered Prevention of Significant Deterioration and is not appropriate to apply here. The Department proposes no change to the rule.

MINOR PERMIT MODIFICATIONS (340-28-2250):

281. P2, P3, P25, P26
340-28-2250(1)(a), The rule proposed by the Department should be revised because it does not contain any standard to guide the Department's discretion. The comparable federal rule suggests that a state rule on this subject was intended because the federal rule refers to "the State program," not the

permitting authority. 40 C.F.R. § 70.7(e)(2)(i)(A)(6). Moreover, the rule as proposed by the Department would preclude the permittee from making the certification required by OAR 340-28-2250(2)(a)(C) because the permittee would have no reason to know whether the Department would require the modification to be processed as a significant modification. Suggest rule be revised to read: Minor permit modification procedures may be used only for those permit modifications that:

(G) Are not otherwise required by ~~the Department rule~~ to be processed as a significant modification.

The Department agrees with the commentor and shall revise OAR 340-28-2250(1)(a)(g) accordingly.

282.

M10, P5, P23, P25, P2, P3, P26

Subsection 340-28-2250(2)(d) would require permittees to wait 45 days after filing a minor permit modification application before making the change requested in the application. This is more stringent than the federal rule, which allows the change to be made immediately upon filing the application (40 C.F.R. § 70.7(e)(2)(v)), and directly at odds with ORS 468A.310(2). Because minor permit modifications are limited in scope, are not protected by the permit shield, and must be processed expeditiously, there is no reason to require permittees to wait 45 days before making the change. This 45-day period was inserted in the proposed rule as a compromise package that involved exempting permitted Title V sources from the notice of intent to construct requirements. If these sources are to be subject to the notice of intent to construct rules, the 45-day period must be deleted from the rule and sources must be allowed to make these changes immediately after it files its application. The length of time and uncertainty of regulatory approval will hamper economic growth and expansion. ***The Department agrees with the commentor. The Department has added a new OAR 340-28-2270 which contains similar requirements to the Notice of Construction (NC) review. The Department originally changed the waiting period for minor permit modifications to 45 days on recommendation from the Advisory Committee. The 45-day waiting period would allow the Department a review period similar to the NC rule. Since the Department has incorporated the new OAR 340-28-2270, the 45-day waiting period for minor permit modifications is no longer necessary. The Department has revised OAR 340-28-2250(2)(d) accordingly.***

283.

P2, P3, P25, P26

340-28-2250(2), See P25 comments on Minor Permit Modifications. Suggest rule be revised to read:

Minor permit modification procedures. A minor permit modification shall be made by the Department consistent with the following:

(d) Source's ability to make change. The source may make the change proposed in its minor permit modification application ~~45 days~~ **immediately** after it files an application. After the source makes the change, and until the permitting authority takes any of the actions specified in OAR 340-28-2250(2)(c)(A) through (C); the source shall comply with both the applicable requirements governing the change and the draft permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its draft permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.

See Department response to 282.

284. M8, M9, M11, M14, M15, M16, M17, P4, P9, P16, P20, P27, P28
No group processing of minor permit modifications should be allowed.

The Department feels that operational flexibility provided by alternative operating scenarios, off-permit changes, and section 502(b)(10) changes should be sufficient. Owners or operators should not have to submit multiple minor permit modification applications to be processed in batches. The Department felt that eliminating group processing of minor permit modifications would benefit applicants since the Department would be required to process applications for minor permit modifications within 90 days rather than 180 days. If the situation does arise where group processing of minor permit modifications is needed, the Department will consider it at that time.

SIGNIFICANT PERMIT MODIFICATIONS (340-28-2260):

285. P26, P24, P2
340-28-2260, The proposal omits the important deadline imposed upon the Department by EPA rules, §70.7(e)(4)(ii) that requires a majority of significant permit modifications to be processed within nine months of receipt of a complete application. This is more stringent than required. Suggest that the rules state that all significant modifications will be processed within 9 months.

The Department is directed by the EPA to complete review on the majority of significant permit modifications within 9 months after receipt of a complete application. This requirement does not belong in procedural rules for federal operating permit program sources. The Department will negotiate an implementation agreement with the EPA that will specify the responsibilities of both parties with respect to the federal operating permit program. The agreement will include the requirement that the majority of significant modifications will be done within nine months after receipt of a complete application. The Department proposes no change to the rule.

286.

340-28-2260(1)(b), It is difficult to know how much flexibility will be granted to the source given the current language. The provision needs to be clarified.

The Department has used the federal language in Part 70 in all cases except where the language conflicts with existing Department rules. (See Department response to 292.) As the Department stated earlier, guidance is being developed for sources to help clarify the requirements of the federal operating permit program. Examples of all types of changes an owner or operator can make at its facility will be included. The Department proposes no change to the rules.

287.

P22

340-28-2260(1)(e), If increases of HAP emissions greater than de minimis levels are defined in the proposed rules as significant permit modifications, they will require very minor changes in a source's operation to obtain a notice of construction (completing all the same complex requirements as when obtaining a new permit), an onerous requirement for both the DEQ and the source. Suggest reviewing the definition of HAP modifications.

The de minimis levels established by the EPA trigger changes that are considered to be significant. Therefore, an existing major HAP source that modifies and increases emissions above de minimis levels is triggering the requirements for significant permit modifications. The Department cannot change the definition of HAP modifications as this is required by the EPA. The Department has revised OAR 340-28-2260(1)(e) to apply to only major HAP sources.

Sources that are not major HAP sources but are major sources for criteria pollutants are subject to the provisions of the new OAR 340-28-2270. This rule requires preconstruction approval for any increase in potential to emit of any regulated air pollutant for each emissions unit.

288.

P21

340-28-2260(4), It is possible for sources to have increases in HAP emissions greater than de minimis without becoming a major source if the de minimis is less than 10 tons. This requirement is overly restrictive for Federal operating permit sources which are not major sources of HAPs, and should be modified to read, "Modifications at sources which are major sources of HAP under 340-28-110 (56)(b)(A)(i) that cause increase of emissions..."

The Department agrees with the commentor and has revised OAR 340-28-2260(4) to apply only to major HAP sources. See Department response to 287.

REOPENINGS OF PERMITS (340-28-2270):

289.

M7

There might be several reasons for reopening operating permits: emissions of certain chemicals might be found to be more hazardous or more difficult to disperse than originally thought; it may be found that synergistic effects make it desirable to reduce emission of certain chemicals; it may be found to be in the public interest to allow a new source to be built or expanded in an area that is already receiving the maximum emission of one or more chemicals.

The Department agrees that there are several reasons for reopening a permit, as listed in OAR 340-28-2270. The Department proposes no change to the rule.

290. P26, P2
340-28-2270(1)(a)(A), The reference to 340-28-2120(1)(a) and (b) should be changed to 340-28-2210, providing for extension of an existing permit and any permit shield if a complete and timely renewal application is submitted and the permitting authority has failed to issue or deny the renewal permit prior to expiration of the existing permit.
An error in the cross reference will be corrected from OAR 340-28-2120(1)(a) and (b) to OAR 340-28-2210.

291. P26, P2
340-28-2270(1)(a)(D), Strike the reference to the EPA as the proper procedures for responding to a reopening by the EPA are included in (2).
OAR 340-28-2270(2), Reopenings for cause by the EPA, only outlines the procedures that the Department and the EPA must follow if the EPA reopens a permit. It does not explain why the EPA would reopen a permit. Therefore, the causes for reopenings in OAR 340-28-2270(1) include the EPA. The Department proposes no change to the rule.

PUBLIC PARTICIPATION (340-28-2270):

292. P26, P2
340-28-2280, Incorporation of the EPA language "shall provide adequate procedures" should not be repeated here, and should be replaced with "shall follow the procedures in this section" or the like.
The Department has used the federal language in Part 70 in all cases except where the language conflicts with or is more specific than existing Department rules. This was done to maintain consistency with the federal program and to make it easy to determine what changes are needed after any federal program changes are made. If the EPA has to amend the Part 70 regulations because of current lawsuits, the Department will examine the EPA's amendments with regard to Oregon's rules. If changes are required, the Department will draft new rules and propose them for adoption to the Commission. Public notice and hearings are required for all proposed rules. The Department must ensure that its rules

meet the minimum federal requirements in order to obtain EPA approval of the federal operating permit program. The Department will maintain areas in the existing permitting program that are more stringent than the EPA requirements. The Department proposes no change to the rules.

293.

M1, M4, M5, M6, M7, M8, M9, M11, M13, M14, M16, M17, P8, P9, P15, P18,
P19, P20, P27, P28, P31, P33

A minimum of 30 days public notice should be provided in which to request a public hearing. [P31 suggests 21 days.]

The Department currently allows 30 days for the public notice period. A written request for hearing must be received by the Department within the first 14 days of the public notice period. Written comments can be submitted at any time during the notice period.

Because of the numerous comments received that 14 days is not adequate time to request a hearing on a permit, the Department has revised OAR 340-28-2280 to provide a 30-day period to request a hearing for federal operating permit program sources. The Department shall propose a revision to Division 14 in the near future to change the 14-day period to 30 days to request a hearing.

The following air quality mailing lists are used for permits that require public notice: a statewide list for individuals that want notice of all air quality actions (rulemakings, permits); a county list for individuals that want notice of permit actions; a media list for the county; and the local library. The Department will add the name of any interested party to any of the mailing lists upon request. Between the mailing lists and the notices sent to the media, the Department feels that adequate notice is provided for permit and rulemaking actions.

The Department considers the Sierra Club to be an organization representing more than 10 people. In the past, hearings have been requested legitimately by the Sierra Club only and have been held.

294.

P29

Although the EPA has previously approved Oregon's provisions for public hearings as part of the SIP with respect to the PSD program, commentor is not certain whether or not this will be approvable under the requirements of Title V from EPA Region X. Commentor intends to support Oregon's "ten person" provision as meeting the requirements when sending the Oregon submittal to Headquarters for processing.

See Department response to 293.

295.

M2, M3, M10

Public notice requirements are potentially burdensome and may lead to unnecessary public hearings, delays and expense. Rules should be flexible enough

to eliminate superfluous public hearings.

The Department feels that the public notice requirements are critical to the permitting process.

With the implementation of the federal operating permit program, more detail will be required in a permit than ever before. More information should clarify some concerns that the public might have, thus eliminating some requests for public hearing. In most instances, hearings are not requested for permits that are out on notice.

Some owners or operators have held public meetings before the permit is out on notice in order to involve the public earlier in the process rather than wait for a public hearing to be requested. This practice has proven to be effective, and the Department encourages sources to follow it, especially for permits that may be controversial.

296. M5, M6, M7, M13, P9

Anyone who participates in the public process should be eligible to be considered "adversely affected" or "aggrieved" even if not residing in the vicinity of an emission source.

The Department agrees with the commentor. OAR 340-28-2290(7) states that "Any person who submitted written or oral comments during the public participation process described in OAR 340-28-2290 shall be an adversely affected or aggrieved person for purposes of ORS 183.484." The Department proposes no change to the rule.

297. S1, M5, M7, P4, P9, P15

Public must be given adequate opportunities to be heard on all significant proposals related to air pollution emissions. The permit process should be open to public participation at every level.

The Department believes that the rules do give adequate opportunity for the public to be heard in all significant proposals related to air pollution emissions. Oregon Revised Statute [ORS 468.065] and Oregon Administrative Rule [OAR 340-28-1710] require the Department to allow for public notice for all new permits and all permits that increase emissions above the Plant Site Emission Limits. The federal regulations require that public notice be given for all renewals also. The Department feels that if the public or a source requests a hearing, that opportunity to raise issues is critical to the process. Therefore, opportunity for the public notice will remain as an element of the federal operating permit.

298. M6

The full permit process, including public participation, should apply to all sources including non-major sources.

Public notice and participation already exists for pre-construction review for any

new or major modification and will continue under the Title V program. Currently, only renewals that increase emissions above the Plant Site Emission Limit (PSEL) are required to go out on public notice. Notice for all permit renewals and major modifications (which include incorporation of compliance schedules for enforcement) are new aspects of the Title V public notice process. All new federal operating permits are also required to include a public notice period in the process.

The smaller sources that are not subject to the federal operating permit program rules will continue to be permitted under the existing Air Contaminant Discharge Permit program. New permits and modifications with increases in emissions will still require a public notice period. The Department proposes no change to the rule.

299.

M4

Commentor believes the current DEQ regulations for public hearings do not always give the public a chance to participate in a timely (or effective) manner. Two recent examples occurred in Klamath County. In one case, construction of the building for a new industrial emissions source was underway in advance of public hearings. The other was a case of no public hearings at all (although one was requested) for increased air emissions from an existing plant.

Ground moving and construction of the outer building are allowed before a permit is issued if the construction does not trigger any federal permitting program.

The Department does not allow construction of the actual equipment that will cause air pollution or construction of the pollution control devices.

For construction that does trigger a federal permitting program, ground moving is permissible along with construction of auxiliary structures, such as office space, at the applicant's risk. No construction or foundation work can be done for the actual source of emissions.

In the case mentioned (Aqua Glass), the construction of the building had begun before the public hearing was held. This was in accordance with Department policy on beginning construction. The Department received letters of appreciation and numerous comments supporting the manner in which this hearing was held from local government, the public, and the company.

All permit modifications that increase emissions above the Plant Site Emission Limit (PSEL) must provide for a 30 day public notice period and an opportunity for a hearing. A source may increase actual emissions and still be below the PSEL. In that case, public notice would not be required. In the case mentioned (Columbia Plywood), a letter was received from one person who signed his name for the presidents of three groups. The letter was not on letterhead stationary for any of the groups, and the person signing the letter was not an officer of any of the groups. The Department determined that this did not satisfy the ten person requirement for hearings and denied the request. The Department did

receive a legitimate request signed by 12 people requesting a hearing but it was received after the 14 day deadline to request a hearing. See also Department response to 295 and 297.

300.

P17

There must be a system of judicial review of permits and permit enforcement and a mechanism whereby citizens can bring action under the air program when appropriate.

OAR 340-28-2310(4) specifies the procedures for public petitions to the EPA. Also see Department response to 296. The Department proposes no change to the rule.

CONTESTED PERMITS

301.

P29

340-28-2290, If a party, including the applicant, desiring judicial review of a permit action in state court is first required to appeal the permit to an administrative agency under the control of the permitting authority, the administrative appeal process must be completed within the time period allowed under Part 70 for the permitting authority to take final action. Furthermore, administrative appeals cannot automatically stay the effect of the permit.

OAR 340-28-2290 provides the opportunity for the applicant to appeal the permit to the Oregon Environmental Quality Commission. EPA draft guidance requires that state program rules must provide for a cause of action for failure to take final action if all administrative appeals have not been concluded by the specified deadlines. According to draft EPA guidance, the deadlines for "final permit action" depend on whether the permitting authority retains legal control over the outcome of the final permit action or whether an independent reviewing body has control of the final permit action after an administrative appeal. The draft EPA guidance states that if the permitting authority retains legal control over the outcome of the final permit action after the conclusion of an administrative appeal, the permit program must provide that all issuance and appeals procedures (including the "final permit action" by the permitting authority) shall be completed within the deadlines for final action required by Part 70 and Title V. EPA draft guidance also indicates that if the permitting authority does not retain legal control over the outcome of the final permit action after an administrative appeal is taken, the permit program must provide that the permitting authority's issuance decisions are only subject to Title V and Part 70 deadlines. Note that this same issue arises for the deadlines found at page A-107 for reopenings, page A-102 for administrative permit amendments, and page A-105 for minor permit modifications.

OAR 340-28-2290 also states "Only those parts of the permit being challenged shall be reexamined. All other permit requirements shall continue to be valid." These provisions imply a "stay" of the contested permit conditions which appears to be an automatic stay, because the rules do not require a showing of the appropriateness of the permit contest to render the challenged portions of the permit ineffective or unenforceable. Based on draft EPA guidance, we suggest that this rule should be changed to require at least some showing of harm before the contested condition is rendered ineffective. A showing of harm would discourage frivolous challenges intended to delay the permit's effectiveness. The OAQPS Operating Permits Task Force has discussed revising the Part 70 rules to prohibit automatic stays and to allow only stays which meet the "irreparable harm" and "likelihood of success" standard applied for temporary restraining orders.

The Department is amending the proposed rules to meet the EPA requirements.

PERMIT REVIEW BY THE EPA AND AFFECTED STATES (340-28-2300):

302. P26, P2
340-28-2300(1)(c), Place a period after FCAA and delete the remainder of the sentence. The EPA does not review whether the program is in compliance with state rules, unless they are part of the SIP.
Comments received from the EPA on the draft rules written by the Department recommended that the Department include state rules whenever "requirements of the FCAA" were mentioned, since state rules are also applicable requirements. Therefore, the Department added "or state rules" to OAR 340-28-2300(1)(c). The Department proposes no change to the rule.

303. P29
340-28-2300(3)(a), The clause "or such earlier time as agreed to by EPA" which has been added to 2300(3)(a) is not approvable. The EPA does not have the authority to shorten its statutory review period and thereby effectively change the date for citizen petitions to the EPA.
See Department response to 253.

304. P26, P2
340-28-2300(3)(a), Delete "drafted" and insert "proposed". See "P26" comments to 340-28-2200
See Department response to 292.

MAJOR SOURCE INTERIM EMISSION FEES (340-28-2300):

305. P2, P26
340-28-2540, Interim fee rules places an excessive burden on sources by denying them the ability to use emission factors for purposes of calculating actual emissions, requiring source tests instead. Rule should also be amended to require sources to document emissions for periods of excess emissions due to startup, shutdown, maintenance or upsets only if those periods of excess emissions account for more than five percent of the equipment's annual operating time or if the emissions during those periods exceed five percent of total annual emissions.

See Department response to 313.

306. P2, P26
340-28-2540, Even though interim emission fee rules do not apply to HAPs, permanent fees must address HAP emissions. Requiring source testing to verify emission factors is unrealistic and expensive as there are very few validated test methods available; those that are in use may cost \$1 million per facility to run. Sources should be able to rely on emission factors used nationally for MACT development, otherwise sources will always choose the option under 340-28-1050 for a voluntary HAP PSEL, greatly increasing the burdens on the Department.

See Department response to 313.

307. M1, M5, M6, M8, M9, M11, M13, M14, M16, M17, P27, P28, P33, S1
Emission fees collected should be high enough to cover all costs of operating the federal permit program.

The Department is not proposing to do less than the federal requirements because of insufficient funds. The Department must demonstrate to the EPA that there will be sufficient funds and personnel to implement the federal operating permit program in order to obtain approval. The areas that may be eliminated due to insufficient funds are areas that are optional.

~~308.~~ M5, M6, M7, M8, M9, M11, M13, M14, M16, M17, P9, P15, P27, P28, P33
Additional scientific studies and data collection required to meet "scientifically defensible" needs test should be supported by emission fees.

HB2175 requires the Department to make a scientifically defensible argument only for those areas in which the proposed program is more stringent than the federal program. The Department is proposing more stringent regulations only where they currently are in existence, as an option to the sources, where reporting is necessary for determining program effectiveness or meeting the scientifically defensible needs test. If the Department wishes to propose more stringent regulations in the future, the rule development may need to be

supported by fees. The Department proposes no change to the rule.

309. S1, P12
Fees should be based on permitted emissions rather than presumed actual emissions unless the source uses CEM data to demonstrate actual levels.
See Department response to 313.
310. M2, M3, M10
Inclusion of interim emission fee rules in this packet is confusing as they no longer apply.
Interim emission fees will still apply to sources in 1993. Therefore, the Department was required to maintain this portion of the rules. It will eventually be superseded by the final rules for fees for federal operating permit program sources.
In addition to proposing new federal operating permit rules, this rule package reorganized some of the Department's existing rules. The Interim Emission Fee Program is still in effect and the rules were a part of this package because they are part of the renumbered rules. The Department will develop final fee rules once legislative authority is received to adopt them. Therefore, comments on fee rules are premature. The Department proposes no change to the rule.
311. P7
Proposed regulations do not contain permit fee rules.
See Department response to 313.
312. S1
Fees should be automatically adjusted for inflation, rather than requiring action by the Environmental Quality Commission.
See Department response to 313.
313. M2, M3, M10
Current interim emission fee rules make calculation of actual emissions so difficult that a source is disposed to use permitted emission levels to determine fees owed, thus ruining any incentive to reduce emissions in order to lower fee charges. Propose a change to allow sources to develop production based emission factors calculated from source test data collected at maximum permit levels.
The interim emission fee rules are not part of this rulemaking. The proposed rule package does not contain changes to the interim emission fee rules other than renumbering. The interim emission fee rules will be the subject of another rulemaking after the bill passes. The Department will be accepting comment on the final fee rules at that time and encourages all interested parties to submit

comments. The Department proposes no change to the rule.

DETERMINING EMISSIONS FROM CONTINUOUS MONITORING SYSTEMS FOR 1992 (340-28-2500):

314. P3
340-28-2500, The requirement to have CEM data be in compliance with the Continuous Monitoring Manual is too restrictive for data to be used in assessing fees. Requirements used in 1991 provide reasonable estimates of regulated emissions and should be allowed.
OAR 340-28-2500 has not changed from existing OAR 340-20-610: it has only been renumbered. The Continuous Monitoring Manual contains requirements that help to ensure good data quality. Without quality assurance/control procedures, monitoring data may be inaccurate and worthless. The Department will continue to require CEM data to be in compliance with the Continuous Monitoring Manual for assessing fees for the interim emission fees. The final fee rules will be proposed to the Commission after SB86 is adopted. The public will have the opportunity to comment on those permanent rules when they are placed on public notice. The Department proposes no change to the rule.

VERIFIED EMISSION FACTORS USING SOURCE TESTING (340-28-2540):

315. P7
340-28-2540, Requiring three compliance source tests for the development of emission factors is excessive.
See Department response to 313.

DEPARTMENT'S EVALUATION OF PUBLIC COMMENT FOR DIVISION 32

Testimony Summary

Whose Comment

Policy and Purpose

1. P26
- 340-32-100, The statements here are inflammatory and incorrect as a general statement when applied to HAPs under FCAA Title III. Moreover, the proposal does not recite the appropriate criteria for declaring a chemical compound to be a HAP. It is not necessarily the purpose or policy to reduce releases of HAPs, although it may be in some situations; but it is the purpose to regulate significant emissions of HAPs. The policy behind these rules is not as stated, but is merely to (1) implement the federal requirements pertaining to HAPs; and (2) impose more stringent requirements where a scientifically defensible need is established to protect public health and the environment. This entire paragraph should be rewritten to accurately reflect the legislative direction. This is more stringent than required.

This statement is not intended to be enforceable but, rather, to set expectations for the standards that follow; the language is taken from the existing policy statement in OAR Chapter 340, Division 25. The Department continues to assert that the purpose of Division 32, like Title III of the Federal Clean Air Act, is to protect human health and the environment through reductions in HAP. Implementation of a minimum Federal program is the primary means to accomplish this. However, it will remain the policy of the Commission that the standards contained in Division 32 are to be considered minimum standards, and as technology advances, or conditions warrant, future Departmental or regional authority rules may require compliance with more stringent standards. This would be done only in accordance with the Commission's statutory authority. The proposed rules do not backslide from the existing program/authority, ORS 468A.325, which states "...nothing in ORS 468A.040, 468A.300 to 468A.320, or this section shall require the Commission or the Department to make less stringent any existing element of the state's air pollution control program."

2. M6, M7, P20
- The cumulative and synergistic effects of chemicals emitted should be considered when establishing regulatory controls.

See Department response to 3.

3.

S2

Because long term effects of chemicals now being used may not be known for 10 to 20 years, air quality regulations should tend to be strengthened rather than weakened.

The Clean Air Act Amendments of 1990 contain provisions for the reduction of air toxics emissions by an estimated 75% within 10 years, largely through the application of maximum achievable control technology (MACT) standards for each listed source category, according to a prescribed schedule. This expected reduction in emissions represents a significant improvement over past approaches to air toxics regulation, where health/risk based and ambient air toxic standard setting resulted in few regulations, due to the difficulty of making decisions about chemical toxicity with inadequate scientific information. The regulations contained in OAR Division 32 represent a broad based enhancement in the Department's ability to regulate industrial sources of hazardous air pollutants, especially since existing sources will now be regulated. The amended Act provides for an appraisal of health effects as the scientific basis for decision making improves, i.e. residual risk analysis eight years after a MACT is promulgated. The proposed Oregon rules require an evaluation of the effect of residual emissions if they are above a specified threshold. Implementation of these rules will very likely result in quantifiable improvements in Oregon's air quality, with attendant reductions in human and environmental health risk.

4.

P7

The MACT for each source category must be developed only by the EPA.

The Department intends to adopt MACT standards as they are promulgated by EPA. However, the Department, after reviewing a federal MACT for its adequacy in controlling sources in Oregon, may present a scientifically defensible argument to the Commission if it believes a more stringent standard is required. There are also two situations in which the state is mandated by the Act to determine MACT standards on a case-by-case basis for major sources. One occurs when a new major source applies for a permit and EPA has not yet promulgated a MACT standard for that source category. The other occurs when the EPA has missed its specified deadline for promulgating a MACT standard for a source category.

5.

M1, M5, M6, M8, M9, M13, M14, M15, M16, M17, P4, P9, P12, P15, P19, P20
The Department should implement requirements beyond the Federal minimum for HAPs to aggressively reduce HAP emissions and to cover gaps in the Federal control program.

The Department has taken a major step in formalizing its control of hazardous air pollutant emissions with the proposal of these rules. With Advisory Committee concurrence, these rules contain several significant provisions which cover gaps in the federal program. For example, under rules OAR 340-32-500 and OAR 340-32-4500

the Department may require additional emissions reduction measures proposed by new or modified sources after MACT is applied. The Department is also requiring sources to estimate annual usages of over 250 additional chemicals, under OAR 340-32-240. As this program is implemented, the Department will have the opportunity to expand the requirements of the program if a need can be shown.

6.

P12

Proposed rules discontinue permitting and monitoring of minimal sources while adjusting the definition of major source, which would allow unacceptably high levels of toxics to be emitted. Permitting process for small sources could be streamlined without eliminating requirement for reporting and controlling toxic emissions.

The proposed rules do not discontinue permitting or emissions monitoring requirements for minimal sources regulated under the state's ACDP program. Many commentors mistakenly believe that the Department's interim policy for HAP requires permitting of sources because their HAP emissions exceeded the threshold amounts. This policy only applies to new or modified sources already requiring a permit because of criteria pollutant emissions. No sources are required to get permits only because of HAP emissions. Furthermore, the policy contains no specific requirements for control, only that ambient concentrations be determined and that emissions be reduced if the Department determines it is necessary. Under the proposed rules the Department estimates that about 70 existing, never-before-permitted sources will be required to have operating permits in the first 3 years. In addition, control requirements will apply to area sources, as well as major sources, as they are promulgated by the EPA. The Department agrees that control of area sources is important but is temporarily deferring permitting them because it remains unconvinced that the added burden of permitting these numerous small sources during the first few years of the program would be more environmentally beneficial than focusing on major sources. Future tasks include identifying area source categories of importance and developing a permit process that is cost-effective.

Definitions

7.

P26

340-32-120(3)(a), This definition appears to exclude measurement of emissions as a basis for determining actual emissions, and should be amended to so allow.

The definition of "actual emissions" states that actual operating hours and production rates must be used in the calculation of actual emissions. This information is required to be used whether multiplying by acceptable emission factors or using source testing or emissions monitoring results. Therefore, the definition does not exclude the use of emissions measurements when calculating actual emissions.

8. P26
340-32-120(4), The definition of "area source" should expressly exclude motor vehicles or nonroad vehicles, consistent with FCAA 112(a)(2). This is more stringent than required.

The definition of "area source" applies to stationary sources but does not apply to mobile sources such as motor vehicles and non-road vehicles.

9. P21
340-32-120(14), The definition of "emissions unit" is identical to 340-28-110(36). While this is good, many of the terms used in the definition are not used in this Division leaving some question as to the reason why not. Repeat the definitions or reference the Division 28 definition.

See Department response to 10.

10. P2, P3, P25, P26
340-32-120(14), Suggest rule be revised to read:
"Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

- (d) Parts and activities shall not be grouped for purposes of determining emissions increases from an emissions unit ~~for~~ under OAR 340-28-1930 or OAR 340-28-1940.

The Department does not agree that there are terms in this definition that are not used in this Division. The definition of "emissions unit" in Division 32 is intended to have the same meaning and is used in the same context as in Division 28 and is therefore repeated verbatim. The suggested correction to the typographical error has been incorporated in the definition of emissions unit.

11. P26
340-32-120(17), Under this definition, are sources prohibited from using published EPA reference methods that the Department has not yet incorporated into its source sampling manual? If so, the language should be changed to allow the use of any EPA reference method, even if not yet incorporated into the Source Sampling Manual (which takes formal rulemaking to change).

The definition of "EPA Reference Method" has been revised to include the definition from 40 CFR Part 63 dated 12/29/93. The language referring to the Department's Source Sampling Manual has also been deleted. The Department does intend to allow for the use of any method approved by EPA.

12. P21
340-32-120(23), "Hazardous air pollutant" should not include pollutants regulated only in Oregon within this definition. Doing so carries over to other definitions, such as major source, modification and MACT, expanding scope of regulations beyond federal regulations. Suggest deleting "...or determined by the Commission to cause, or reasonably anticipated to cause, adverse effects to human health or the environment."

See Department response to 13.

13. P2, P3, P25, P26
340-32-120(23), It is not appropriate for the definitional section to specify criteria for the listing of additional HAPs. The criteria for listing additional HAPs are established by statute and by OAR 340-32-140. Listing criteria in the definition may lead to confusion and to inconsistencies with these more definitive criteria. Suggest rule be revised to read: "Hazardous air pollutant" (HAP) means an air pollutant listed by the EPA pursuant to Section 112(b) of the FCAA or ~~determined by the Commission to cause, or reasonably anticipated to cause, adverse effects to human health or the environment~~ listed in Table 1 to OAR 340-32-130.

The definition of "hazardous air pollutant" reflects the Department's necessary authority to add and delete chemicals from the list when EPA does. It also reflects the Department's authority and responsibility to have a process to protect public health and welfare. As stated under OAR 340-32-140, the Department will be required to present a scientifically defensible argument to the Commission prior to adding any chemical, that the EPA has not included, to the list.

14. P21
340-32-120(25), "Major source" should reference the federal definition under section 112. The proposed definition expands the scope beyond the federal program because it relies on 340-32-120(23) for the definition of HAP. Should read as stated in 340-28-110(56)(b)(A).

See Department response to 16.

15. P21
340-32-120(26), "MACT" is also affected by the broad definition of HAP in 340-32-120(23). As proposed, Oregon may be required to impose case-by-case MACT on sources of Oregon only pollutants.

See Department response to 16.

16. P21

340-32-120(27), "Modification" is also affected by the broad definition of HAP in 340-32-120(23).

The Department agrees with the commentor that the definitions of "major source", "MACT", and "modification" are affected by the definition of hazardous air pollutant and if the list of hazardous air pollutants is modified in the future by either the EPA or the Commission that these definitions are also affected. However, the Department does not believe that the definition of hazardous air pollutant and its effect on these other definitions necessarily "expands the scope beyond the federal program". The rules that implement Title III are directed at source categories not specific pollutants. The process for adding a substance to the list requires the Department to present a scientifically defensible argument to the Commission, which will include information about the sources emitting a hazardous air pollutant, as well as information about the pollutant's toxicity. When the Commission determines that a substance should be added it will also be determining the source categories to be regulated.

17.

P21

The section on "Emission Standards" makes numerous references to "the effective date of the program" but fails to specify what program: federal operating permit or Division 32?

"Effective Date of the Program" is defined in Division 32 under OAR 340-32-110(11) as it is in Division 28. As described in the Rule Discussion Document, the Federal Operating Permit Program provides the vehicle for implementing the emissions limitations and other requirements of Division 32. Until EPA's approval of the Federal Operating Permit Program the Department's interim policy will be implemented through the existing Air Contaminant Discharge Permit program. In the context of emission standards "Program" means the Federal Operating Permit Program.

18.

P2, P3, P25, P26

340-32-120(26), The Clean Air Act does not contain a general definition of MACT, and there is no need for a general definition. More importantly, the inclusion of this abbreviated definition may lead to confusion and create inconsistencies with the specific definitions of MACT contained in later sections of the division. Suggest rule be revised to read:

~~"Maximum Achievable Control Technology (MACT)" means an emission standard applicable to major sources of hazardous air pollutants which requires the maximum degree of reduction in emissions deemed achievable for either new or existing sources.~~

The commentor suggests that the definition of MACT be deleted from the rules because there is no definition of MACT in the Act. The Department does not agree with this interpretation and refers the commentor to section 112(d) of the Act which is

essentially a definition of MACT. The proposed definition of MACT contains this defining sentence from Title III to assist readers of the rules in gaining an understanding of MACT before being confronted with all of the MACT criteria included in the "Emissions Limitations ..." sections of the rules.

List of Hazardous Air Pollutants

19. M1, M5, M6, M7, M8, M9, M14, M16, M17, P9, P15, P16, P17, P19, P20
Retain the current list of HAPs and add the 200 HAPs identified in the rule for a total of 700+ HAPs. [P31 suggests listing the federal HAPs (189 chemicals) and adding an extra 200 as hazardous pollutants.]

See Department response to 23.

20. M6, P9, P15, P19, P20
Any chemical compound listed as a HAP by any state or Federal agency should be controlled unless further study proves it to not be a HAP.

See Department response to 23.

21. M6, M8, M9, M15, M16, M17, P9
Any chemical compound structurally related to a known HAP should be considered a HAP until proven to be otherwise by the emitting facility.

See Department response to 23.

22. M6, P4
All HAPs, suspected or otherwise, should be regulated through existing programs and not delisted because Federal standards have not been set or have been set at higher thresholds than Oregon rules allow.

See Department response to 23.

23. 340-32-140, The list of air toxics should be limited to the 189 identified in 112 of the FCAA. Expanding the list will not measurably enhance air quality and will place an additional burden on sources. The methodology for measuring most of these toxics is uncertain.

The Department believes that arbitrarily expanding this list of chemicals and compounds will do little to improve Oregon's air quality, would be an unreasonable burden upon Oregon's industrial sources, and would yield uncertain environmental and

human health benefits. The proposed rule, OAR 340-32-130, will require major sources of HAP to quantify emissions of approximately 200 chemicals and compounds from the SARA 313 and section 112(r) accidental release programs, in addition to those on the section 112(b) list. A 75% reduction in emissions of the listed substances is expected to be achieved within ten years of implementation of the Act.

The primary purpose of the initial Federal list of compounds is to help identify source categories, not to regulate specific hazardous air pollutants. Control of the categories identified by the EPA will be a major regulatory undertaking, and will significantly reduce the amount and toxicity of emitted pollutants. The Department believes that the mere addition of pollutants to the 112(b) list, or the expanded SARA 313 and 112(r) lists, will have little practical effect on the development of control standards, or on the improvement of air quality.

With the implementation of OAR 340-32-130, the Department will secure emission information on the primary additional pollutants of concern in Oregon. Provisions are incorporated in OAR 340-32-140 to modify the existing list of chemicals and compounds by amending the rule. The Department initiates rule making by providing the Environmental Quality Commission with emissions data, along with data on the health or environmental effects of the pollutant or other evidence, and requesting that the list be amended. The Commission will evaluate this petition on its scientific merits, and upon determining that adequate evidence exist, will amend the list through rule making. The Department will then petition the EPA to either add or delete the particular chemical or compound from the 112(b) list.

Amending the List of HAPs

24. P29
340-32-140, The provisions for amending the list of hazardous air pollutants (OAR 340-32-140) need to include provisions for adding new pollutants which the EPA has added pursuant to §112(b) of the Act as well as the authority to delete pollutants which the EPA has deleted. However, this provision cannot authorize the Department to delete a pollutant which is on the list established pursuant to §112(b) of the Clean Air Act.

The language of OAR 340-32-140(3) has been clarified to reflect this comment.

25. P21, P5
340-32-140 does not allow the delisting of an Oregon-only HAP in light of new scientific information. Also, to save Department resources by avoiding duplication of EPA evaluations, demonstration of protection should be restricted to Oregon health and environment. Suggest: "(3) The Commission shall amend the HAP list if it finds there

is a scientifically defensible need to add substances to protect the public health or environment in Oregon or if a chemical is deleted from the list by the EPA or in light of new scientific information the Commission finds that the substance can be deleted without causing harm to public health or the environment in Oregon."

The Department intends to amend the list of HAP only to address scientifically defensible concerns about health and the environment effects in Oregon. However, the Department believes that by adding the language "in Oregon" it may in some cases add an unnecessary restriction to the process. For example, the chemical emissions from a specific facility in Oregon, whose impacts occur primarily within another state, would not be covered. With respect to deleting chemicals from the list, the Department can only de-list chemicals that EPA has de-listed from the section 112(b) list. In the case of a chemical not on the EPA list, that the Commission has previously added, the process as proposed does allow for the Commission to consider a scientifically defensible argument to de-list a chemical.

PERMIT APPLICATION REQUIREMENTS

Prohibited Activities

26. P26
340-32-200, Delete this entire section, as such a prohibition is not required by the FCAA or EPA rule. What is the statutory authority for such a prohibition? This is more stringent than required.

The prohibition contained in OAR 340-32-200 is a modification of language already in Division 25. The Department believes the statement is consistent with the Commission's authority but believes it is more appropriately a policy statement and has moved it to OAR 340-32-100.

Applicability

27. P1
Some HAPs have a Lower Quantity Emission Rate (LQER) so low that even the best technology available could not prevent a source from qualifying as major. This situation presents a need for a protection built in to the rules for sources who might exceed LQER but would otherwise be minor.

This comment is premature since the EPA has neither adopted nor proposed any Lesser Quantity Emission Rates (LQER). The Department has contacted EPA regarding this

issue and learned that the EPA has considered two methods of establishing LQER under Title III. One method would be to establish a major source threshold lower than the 10/25 tons per year prescribed in the Act for each chemical based on its toxicity. The other method would define the major source threshold as part of a MACT standard for a particular source category. The EPA has decided not to pursue the first approach but will use the second approach when developing each MACT standard. The Department will review any LQER established in a MACT standard prior to state adoption, but in no case can the state standard be less stringent than the federal standard.

28. P26, P6, P24
340-32-210, It would help to establish the type and content of the notice required. Can this requirement be met by major HAP sources by filing a federal operating permit program application? Are there any thresholds for when a construction or modification must provide notice? This is more stringent than required.

The Department has added citations for the permit requirements to help clarify rule OAR 340-32-210.

29. P21
340-32-210(2)(a), Should be restricted to emissions which exceed de minimis amounts or significant emission rates and are not authorized under existing permit. A reasonable cut-off, with provisions to lower the threshold at a future time if needed, will allow Department to focus resources on truly significant emission reductions.

It is the Department's intent to have Division 32 apply to all the sources listed in OAR 340-32-210. The Department believes that the issues raised are adequately addressed in OAR 340-32-240 where sources are instructed to obtain operating permits in conformance with the permitting requirements of Division 28. Those requirements clarify insignificant activities and the emissions that must be accounted for in the permitting process.

30. P21
340-32-210(2)(b), Unnecessarily restricts the activities that permitted sources are allowed to change under the permit, e.g., major HAP sources proposing to modify an emission unit must notify the Department even if the unit is not a HAP emission unit or if the change is de minimis in nature.

Rule OAR 340-32-210(2)(b) has been revised to apply the provisions of Division 32 to new major HAP sources and major HAP sources that propose a modification. Modification is defined in OAR 340-32-120.

31.

P3, P5

Regulation of HAP emissions from electric utility steam generating units should be deferred until the EPA determines what regulation is appropriate and necessary after studies required by the Clean Air Act, Section 112(n)(1)(A) are completed.

The Department is aware that subsection 112(n) of the Act includes a provision requiring the EPA to "perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units" and that the results of the study shall determine control strategies for this source category. The Department does not intend to adopt a state standard until the EPA promulgates an emissions standard. However, the Department believes that such sources still have other requirements related to Title III, for example to apply for permits and to provide emissions information.

32.

P24

- a. 340-32-210, Suggest changes to rule language for the following reasons:
- 1) Title III was intended to regulate industries that knowingly emit hazardous chemicals as a result of their production processes, not those that are incidental by-products of production. Basic feedstock at municipal waste combustors is municipal solid waste.
 - 2) The DEQ allows only four options for quantifying HAP emissions, three of which have limited utility. The fourth, Material Mass Balance, is not an option because of the heterogeneous nature of the fuel burned at Brooks municipal waste combustor (see Attachment 1 for listing of chemicals to be monitored and which, if any, of the four methods can be used at this facility. Approximately 10% of the pollutants can be quantified using these methods; it is not possible to quantify the balance using EPA reference methods.)
 - 3) Municipal waste combustors are to be regulated under FCAA Title III Section 129. No reference is made in proposed rules to regulation of sources under Section 129. Will there be specific requirements in subsequent rulemakings? Or are the standards in Section 129 to be implemented under the structure of the proposed rule?
 - 4) Section 129(a)(4) specifically lists 11 parameters to be controlled for municipal waste combustors. Along with the parameters in the current ACDP, these should be the only elements that should be required for control in the permit.
 - 5) Section 129(c) states that regulations governing monitoring shall specify frequency, test methods and procedures validated on solid waste incineration units. Commentor is unclear which, if any, of the procedures outlined in 40 CFR 60 Appendix A have been validated and clarification would be appreciated. Suggest amending the rule to read:

- b. The provisions of this Division shall apply to any new, modified, or existing source which emits or has the potential to emit any HAP listed in Table 1 of OAR 340-32-130, except for municipal waste combustion units which are regulated pursuant to Section 129 of the FCAA.
- c. The owner or operator of the following types of sources shall notify the Department and shall comply with the standards set forth in OAR 340-32-400 through 4500:
 - (a) any existing major source of HAP; except as exempted in Section 340-32-210(1) above.

The commentor refers to rule OAR 340-32-210 but the comment is much broader and pertains to how the Department intends to regulate municipal waste combustors. The Department believes that the intention of Title III of the Clean Air Act Amendments of 1990 is to regulate emissions of hazardous air pollutants from stationary sources. No where in the Act language is there a distinction between those facilities that use hazardous chemicals as a basic feedstock in production processes versus those facilities that produce hazardous emissions as a by-product. On the contrary, EPA intends to develop MACT standards for many types of combustion sources and manufacturing processes whose hazardous air pollutant (HAP) emissions are almost exclusively "by-products".

The Department is aware that the EPA is developing an emissions standard for controlling HAP emissions from municipal waste combustors under section 129 of the FCAA. The standard will be implemented through the New Source Performance Standards (NSPS) program but the standard is being developed using the criteria for MACT standards. The Act language does not explicitly exclude municipal waste combustors from other provisions of Title III. It is clear that the EPA recognizes municipal waste combustion as an important source category of HAP emissions and intends to subject major sources in this category to the provisions of Title V and III. The Department, therefore, does not believe that municipal waste combustors should be excluded from the provisions of Division 32 (including quantifying emissions of HAP under OAR 340-32-240). The Department has, however, added language to exclude municipal waste combustors under rules OAR 340-32-500 and OAR 340-32-2500. This excludes municipal waste combustors from emission limitations established under MACT but does not exclude them from the current NSPS, the NSPS being developed, or other incinerator rules established by the Department in Division 25.

Permit to Construct or Modify

33. P3, P25
Section 340-32-230(2) and subsections 340-32-240(2)(a) and 340-32-260(1) require actual

and potential emissions of hazardous air pollutants (HAPs) to be quantified and reported. These provisions should exempt insignificant HAP emissions in accordance with the insignificant emissions provisions of Division 28.

The rules referred to in this comment have been revised to require potential emissions and to incorporate the provisions of Division 28.

34.

P26

340-32-240(1), A new major source of HAP must first get an ACDP under 340-32-230 to construct. The federal operating permit program requires only that a major source (including major source of HAP) apply for a federal operating permit within 12 months of commencing operations, § 70.5(a)(1)(ii). The source must meet any applicable MACT standards, but these can be imposed through the ACDP. Your federal operating permit program proposal also allows a source that fulfills the substantial equivalent of the federal operating permit program procedures in obtaining an ACDP to use the administrative permit amendment procedures to incorporate the ACDP into a federal operating permit. This rule seems to conflict with the procedures outlined.

New and modified major sources of HAP are being required to obtain construction permits through the ACDP process so that a MACT determination can be made before the source constructs. Section 112 clearly requires that pre-construction MACT determinations be made and since Division 28 requires other types of major sources to obtain ACDP permits prior to construction it follows that HAP sources should have the same requirement. The Division 28 permitting provisions referred to in OAR 340-32-240 include the Administrative Amendment procedures (OAR 340-28-2230) which allow for ACDP permits that meet the requirements to be incorporated into a FOP permit. Please see the Rule Discussion Document, (Attachment ___) for further information on this issue.

35.

P2, P3, P25, P26

340-32-230(2), See P25 comments on Quantification of Hazardous Air Pollutants. Suggest rule be revised to read:

All applicants for construction or modification of a major source of HAP shall determine and report to the Department all potential emissions of HAP listed in Table 1 (OAR 340-32-130) that do not qualify as an insignificant activity under OAR 340-28-110.

The Department will continue to implement the emissions reporting requirements in the construction permitting process through the ACDP program as it has in the past. The term "insignificant activities" applies to federal operating permit sources and provisions relating to insignificant activities are included in OAR 34-28-2120(3). Therefore, the suggested rule language change for Permit to Construct and Modify has not been incorporated.

36. M1, M5, M6, M8, M9, M14, M15, M16, M17, P9, P19, P20
To ensure regulation of some HAP sources even though the EPA has not acted, existing air toxics controls must be continued while preconstruction permits for HAP sources are processed.

While the Department has regulations which require pre-construction permits for sources emitting greater than 10 tons per year, including hazardous air pollutants, there are currently no rules that require control specifically of HAP. However, for the last six years the Department has had an "Interim Air Toxics Policy" that has resulted in controls being required for HAP emissions from new and modified major sources applying for an ACDP. The Department intends to continue implementing this policy while waiting for EPA approval of the Title V program.

Permit to Operate

37. P9, M13
Extensive data collection and reporting on all hazardous substances found at an industrial source should be made to assist the DEQ in making a determination of need for more stringent regulations, to be financed by emission fees.

Extensive reporting for the 189 compounds listed as hazardous air pollutants will be required for all major sources. In addition, sources subject to a MACT standard will be required to comply with additional monitoring, reporting and compliance measures. The Department has also proposed, under OAR 340-32-240, that sources identify in their permit applications whether they use any of the additional chemicals specified and in what range they use those chemicals. This information will help the Department in assessing the effectiveness of the program and if there are additional chemicals being used in sufficient quantity in Oregon whether they should be considered for addition to the list of regulated pollutants.

38. P24
Section 129 of the CAA specifies 11 chemicals to be monitored by municipal waste incinerators. The requirement for monitoring 467 HAPs in OAR 340-32-210 represents an unnecessary and undue financial burden.

The commentor has referenced rule number OAR 340-32-210 but the comment appears to pertain to rule OAR 340-32-240. Nothing in this rule requires municipal waste combustors to conduct source testing to estimate and quantify emissions of 467 chemicals. The Department has rewritten this rule and revised the language to require sources to quantify emissions of the 189 pollutants listed in OAR 340-32-130 using the most representative data as defined in OAR 340-28-2120(4). As revised, rule OAR 340-

32-240 would also require sources to estimate their annual usage of additional chemicals beyond the 189. This rule has been specifically rewritten to lessen the reporting burden on sources and still provide the Department with information necessary to run an effective program.

39. ▶ 340-32-240(2)(b) & (c), Is the threshold to be 1000 pounds per pollutant per year or a total of 1000 pounds per year of any combination? If the latter then suggest the rule be amended to read:

(b) all actual emissions totaling more than 1000 pounds per year of any combination of [aH] chemicals listed under Title III Section 313 of the Superfund Amendments and reauthorization Act of 1986 (Public Law 99-499) and not reported pursuant to subsection (a) of this section.

(c) all actual emissions totaling more than 1000 pounds per year of any combination of pollutants listed in Table 4 (OAR 340-32-5100) and not reported pursuant to subsections (a) and (b) of this section.

See Department response to 44.

40. P3, P25

340-32-240(2)(b) would require applicants to determine and report "all actual emissions totalling more than 1000 pounds per year of all chemicals listed under Title III Section 313 of the Superfund Amendments and Reauthorization Act of 1986" (SARA 313). Determining and reporting SARA 313 emissions is not required by the federal Clean Air Act or implementing regulations. Moreover, until and unless emissions of SARA 313 chemicals are regulated under Division 32, there is no justification for this burdensome requirement. Commentor is willing to provide the Department with SARA 313 emissions information to the extent that this information is already collected for purposes of compliance with SARA 313, but the proposed 1000-pound-per-year threshold is far lower than the thresholds under SARA 313.

See Department response to 44.

41. P3, P25

340-32-240(2)(b), (c), Requires sources to report actual emissions of SARA 313 chemicals and subsection 112(r) chemicals but does not specify how actual emissions are to be quantified. The rule discussion document suggests that the quantification requirements are not as stringent as those for HAPs, but if emissions of these substances are to be quantified and reported, further clarification is needed in the rules. To make this requirement more consistent with subsection 112(r) and the reporting thresholds for HAPs, suggest 340-32-240(2)(c) be amended to read: "all actual emissions totaling more than 1000 pounds per year of each pollutant[s] listed in Table 4 (OAR 340-32-5100) if

the pollutant is present in greater than the threshold quantity specified in Table 4 and if the pollutant is not reported pursuant to subsection[s] (a) [and (b)] of this section."

See Department response to 44.

42. P21
340-32-240(2), Delete (b) and (c). This section expands requirements of the Federal operating permit program beyond that required by Federal law in violation of stringency provision in Oregon law. Requirements unique to Federal operating permit sources and not required under Federal law cannot be included in the permit application. This places an administrative burden without justification of environmental benefit or consideration of more appropriate methods. It requires two calculations, once for actual emissions and another for potential emissions. It additionally requires tracking of trace amounts of chemicals, not only in pure form but also in brand name mixtures and special formulations. This reporting system will be costly and take financial resources away from emission reduction. Since it is not a Federal requirement the costs associated with accepting data, determining completeness and reviewing information cannot be paid for from Title V emission fees, creating an intensive accounting situation for the Department.

See Department response to 44.

43. P22
340-32-240(2)(b) & (c), These requirements exceed Federal requirements and are therefore in conflict with stringency provision. Commentor supports the DEQ's need to obtain data to determine if additional requirements are necessary, but believes that such data should be gathered in a less burdensome way. HAP data gathering should not be limited to Title V sources and not be a part of federal operating permit or funded by Title V program. Suggest HAP data gathering should be limited to sources submitting data on the usage of Title III Section 313 chemical list and the Accidental Release chemical list in Table 4, and usage should be reported in ranges designated by the DEQ, e.g., 0-1000 lbs, 1,000-2,000 lbs., etc.. More detailed emission data could be collected on those specific HAPs and sources for which concerns were identified in initial data collection.

See Department response to 44.

44.
M5, M6, M7, M8, M9, M13, M14, M15, M16, M17, P8, P9, P15, P19, P20
Minimum reporting requirements for HAPs should be lower than 1000 # threshold, perhaps triggered by suspected or known toxicity or synergistic effects or climatic or geographic conditions that aggravate exposure.

The Department received several comments on OAR 340-32-240(2)(b) and (c) as it was

originally proposed. As a result of these comments and recommendations from the Advisory Committee this rule has been substantially revised.

The Department's intent was to develop a process to respond to public concerns regarding the list of chemicals. Members of the Advisory Committee and the public-at-large were concerned that the list of regulated air pollutants in 112(b) did not include many pollutants of concern. The Department agrees that chemicals not on the 112(b) list may be emitted in Oregon and may pose a threat to public health and the environment. The Department is required to formulate a scientifically defensible argument that a threat of adverse effect exists from a particular chemical and present this argument to the Commission before the rule listing regulated air pollutants can be amended. The reporting requirements proposed under 340-32-240(2) were intended to give the Department information to decide whether to initiate this process for a particular chemical.

In addition, the information collected under this rule will allow the Department to keep an inventory of toxic chemical emissions and track the effectiveness of MACT standards, determine trends in air toxic emissions (both of regulated and non-regulated pollutants), and also provide the public with information on additional chemicals emitted at a particular facility.

Many commentors stated that this rule as proposed was unnecessarily burdensome to industrial sources and exceeded minimum federal requirements. However, the Department must be able to gather information about releases of additional substances in order to meet its obligation to provide the Commission with scientific evidence of a need to go beyond the minimum federal requirements. There was general agreement among the Advisory Committee members that the issue of additional toxic chemicals should be addressed and that the permitting process was the most appropriate place to gather the information needed. The Department worked with Advisory Committee members to revise the rule language in order to decrease the reporting burden on sources and still provide the Department and the public with the most critical data needed.

The rule as revised, would now require sources to provide information on the use of additional chemicals with a potential for impacts on public health and the environment. The additional chemicals come from the list of chemicals used for reporting under SARA Title III Section 313 (amendments to the Emergency Preparedness and Community Right to Know Act), and from the list of chemicals proposed under Accidental Releases Section 112(r) of the Clean Air Act. Instead of being required to estimate emissions greater than 1,000 pounds per year of these chemicals as originally proposed, sources would be required to indicate if they manufacture, process, or use any of the additional chemicals. Sources would estimate their annual usage of these chemicals in the following ranges: 0, under 1,000 pounds, 1,001 to 10,000 pounds,

10,001 to 20,000 pounds, 20,001 to 50,000 pounds, and greater than 50,000 pounds. It is important to note that the requirement for estimating this information is only required at the time of permit application, modification, or renewal. This is NOT an annual reporting requirement. Commentors are referred to the revised rule language and the rule discussion document for more information on this topic.

45. P2, P3, P25, P26
340-32-240(2) & (3), See P25 comments on Quantification of Hazardous Air Pollutants. Suggest rule be revised to read:

All HAP major source operating permit applicants shall determine and report to the Department:

- (2) (a) all actual and potential emissions of HAP listed in Table 1 (OAR 340-32-130) that do not qualify as an insignificant activity under OAR 340-28-110; and
(b) ~~all actual emissions totaling more than 1000 pounds per year of all chemicals listed under Title III Section 313 of the Superfund Amendments and reauthorization Act of 1986 (Public Law 99-499) and not reported pursuant to subsection (a) of this section.~~
(eb) all actual emissions totaling more than 1000 pounds per year of each pollutants listed in Table 4 (OAR 340-32-5100) if the pollutant is present in greater than the threshold quantity specified in Table 4 and if the pollutant is not reported pursuant to subsections (a) and (b) of this section.
(3) An emission of a HAP or Table 4 pollutant that is not required to be reported under OAR 340-32-240(2) shall be deemed to be an "insignificant activity" under Division 28 of these rules.

Some of the commentor's suggested rule language changes regarding insignificant activities have been incorporated. The rule now refers to the insignificant activities definitions and provisions in Divisions 28. These definitions provide criteria for determining what HAP emissions are allowed to be considered insignificant.

General Permits

46. P26
340-32-250(1)(b), Delete the phrase "or OAR 340-32-500 through OAR 340-32-5000," as this is not a federal requirement. The phrase would be acceptable only if the final language of the cited sections implements only those requirements of FCAA 112(d) and nothing more. This is more stringent than required.

The federal requirements allow states flexibility in determining when to issue general permits. The issue of which sources should be issued general permits in Oregon was

brought before the Advisory Committee. After several discussions, the Committee reached consensus on issuing general permits only to those existing major sources for which there are no applicable emissions limitations, i.e. no state or federal MACT standard has been promulgated and EPA has not missed a promulgation deadline. These general permit provisions will not apply to new major HAP sources because the state is required to either apply new source MACT promulgated by EPA, or develop a state MACT on a case by case basis. The rule language has been revised to include only the existing MACT standards developed for existing or modified sources (OAR 340-32-2500 through OAR 340-32-5000).

47. P2, P3, P25, P26
340-32-250(1), "Problem source" is simply too vague to use as a criterion. If certain sources are "problems," the Commission should adopt rules addressing those sources and directing them to apply for individual permits. Suggest rule be revised to read:
The owner or operator of an existing major HAP source which meets all of the following criteria may apply to be covered under the terms and conditions of a general permit for the applicable source category in accordance with OAR 340-28-2170:
(a) major source under section 112 of the Act only; and
(b) no applicable emissions standards promulgated under section 112(d) of the FCAA or OAR 340-32-500 through OAR 340-32-5000; and
(c) ~~not considered a problem source.~~

The term "problem source" has been clarified in OAR 340-32-250 as suggested by the commentator.

Quantification of Emissions

48. P26
340-32-260(2), Elective PSELs should be available for other purposes (e.g., trading) and should not be limited to paying fees on permitted emissions. The Department should clarify that trading of HAP emissions will be allowed at least to the degree allowed under EPA trading rules or MACT determinations. At a minimum, the Department should state its intent to address trading issues in other rulemakings. Because the EPA allows emissions caps for HAP for broader purposes, this is more stringent than required.

EPA has not yet promulgated rules for trading/offsetting of HAP emissions under 112(g)(1). This is a very controversial issue that is undergoing much negotiation at the federal level. For this reason the Advisory Committee recommended that the Department not included provisions for trading/offsetting of HAP in this rule package until more information was available from EPA. In addition, the trading provisions allowed for under Oregon's PSEL rules have the potential to contravene the provisions

of 112(g)(1). For further discussion of this issue and the Department's intent to incorporate rules as promulgated by EPA, the commentor is referred to the rule discussion document.

EMISSION STANDARDS

Emission Limitations for New Sources

49. P2, P3, P25, P26

340-32-500(2)(a), For consistency with 42 USC § 7412(d)(2). Although these are case-by-case standards, the standards must be identical to the standards that would have been adopted by rule for the relevant category or subcategory of sources. See 42 USC § 7412(j)(5). Suggest rule be revised to read:

State MACT. Any person who proposes to construct a major source of hazardous air pollutants before MACT requirements applicable to that source have been proposed by the EPA and after the effective date of the program shall comply with new source MACT requirements determined by the Department on a case-by-case basis.

(a) In establishing a State MACT the Department shall require the maximum degree of reduction in emissions of hazardous air pollutants (including a prohibition on such emissions, where achievable) that the Department, taking into consideration the cost of achieving such emission reductions, and any nonair quality health and environmental impacts and energy requirements, determines is achievable for new sources in the category or subcategory to which such emission standard applies, through application of measures, processes, methods, systems, or techniques including, but not limited to, emissions reduction measures which:

The commentor's suggested rule language change is redundant and does not offer any additional clarification. Therefore, the Department has not incorporated the suggested change to OAR 340-32-500(2)(a).

Residual Emissions

50. P25

340-32-500(4) and 340-32-4500(3), The proposed residual emissions provisions are not required by the federal program, will be unduly burdensome to industry and the Department, and will likely produce no environmental benefits. Commentor strongly urges the Department to delete these provisions in their entirety. If, nonetheless, the Department chooses not to delete the residual emissions provisions from the proposed rules, Commentor urges the Department to consider the following comments, which apply equally to new sources and modifications of existing sources:

- a. 340-32-500(4)(a) would trigger additional action if a source's potential to emit exceeds de minimis levels. The use of potential to emit in this context is inappropriate. If the source is not actually emitting above the de minimis levels, its potential is irrelevant. To limit the source's potential to emit would require specifying in the permit detailed limits on all these parameters for every listed chemical the source has the potential to use. Such detail is inappropriate and a waste of public and private resources. As long as the source finds a mix of these factors that actually keeps its emissions of particular HAPs below de minimis levels, there is no need for the DEQ to regulate this level of detail in the source's operations simply in order to artificially reduce the potential to emit. Accordingly, this section should be revised to refer only to actual emissions.
- b. This section also provides that a major source "shall demonstrate" that the potential to emit each listed HAP is less than the de minimis amounts listed in Table 3. Although Commentor does not believe that the Department intended to mandate a reduction in HAP emissions to de minimis levels, the use of the phrase "shall demonstrate" implies exactly that. The phrase "shall demonstrate that" should be replaced with "shall, upon Department request, assess whether."
- c. 340-32-500(4)(b), requires that if HAP emissions exceed de minimis levels, "additional emissions reduction measures shall be considered." It is not clear who must consider the additional reduction measures or what consideration is required. The rule assumes that emissions in excess of de minimis amounts pose a threat to public health. Because of the difficulty of assessing the risk posed by residual emissions (the very reason for MACT standards), the residual emissions rule, if retained, should provide the following mechanism for addressing the residual risk concerns that lie in back of this rule: (1) the source should, upon the direction of the Department, assess whether residual HAP emissions actually exceed the de minimis amounts; if so, (2) the Department should consider whether additional controls may be warranted; if the Department decides that additional controls may be warranted, (3) the source should be permitted, but should not be required, to either (a) demonstrate that the residual emissions pose no unreasonable risk to human health through an air quality or other analysis or (b) propose additional emissions controls that will resolve the Department's concerns. If the Department's concerns remain unresolved, then the Department could initiate a rulemaking proceeding as provided in proposed OAR 340-32-500(4)(b)(B).

See Department response to 56.

51.

P26

340-32-500(4), While commentor supports the P25 comments on this section, commentor believes additional amendments are necessary. Commentor suggests that, consistent with the EPA's adoption of de minimis quantities through guidance as opposed to rule, this

rule should refer to de minimis quantities specified by the Department in guidance, without including the EPA guidance values in rule.

See Department response to 56.

52. P22
340-32-500(4), Requirements are above and beyond the federal requirement and should be deleted. The data gathering suggested in the "P22" comment on 340-32-240(2)(b) & (c) should provide enough information to determine residual emissions.

See Department response to 56.

53. M1, M5, M6, M8, M9, M13, M14, M15, M16, M17, P4
Additional emission reduction measures should be applied to new HAP sources, especially where cumulative impacts with existing sources are possible.

See Department response to 56.

54. M6, P9, P12, P19, P20
More toxic HAPs should be more tightly controlled. Rules should include de minimis levels for HAPs as identified in EPA guidance, and additional emission reductions measures to control residual emissions above these levels should be imposed. One commentor suggests that 10 tons per year of 2,3,7,8-tetrachlorodibenzo-p-dioxin is too much. The toxics to be considered vary in their toxicity and health risk to people and the environment. A single numeric value fails to reflect this differential effect.

See Department response to 56.

55. P2, P3, P25, P26
340-32-500(4) and 340-32-4500(3) See P25 comments on Residual Emissions. For the reasons stated there, commentor believes that this subsection regarding residual emissions should be deleted in its entirety. The revisions to the text are proposed in the event that the Department chooses to retain the subsection. Suggest rule be revised to read:

Residual emissions.

- (a) The owner or operator of the proposed major source shall ~~demonstrate that the potential to emit shall~~, upon Department request, assess whether its actual emissions of each listed HAP, after complying with any emissions limitation in section (1) or (2) of this rule, would be less than the de minimis amounts listed in Table 3 (OAR 340-32-4500). This requirement shall apply only to increases in emissions from the new emissions units.
- (b) If the ~~potential to emit~~ actual emissions of listed HAPs exceeds the de minimis quantities, ~~then the Department shall consider whether~~ additional emissions

reduction measures ~~shall be considered~~ **are warranted.**

- (A) **In order to address concerns regarding residual emissions,** The owner or operator of the source may, **but is not required to,** (i) propose additional emissions reduction measures to reduce residual HAP emissions that, if approved by the Department, shall be included as permit terms or conditions **or (ii) demonstrate through an air quality analysis that the residual emissions do not pose an unacceptable risk to public health or the environment;** or
- (B) The Department may propose rulemaking, as needed to protect the public health or environment, to establish additional emissions reduction measures for the source ~~that does not propose sufficient additional emissions reduction measures.~~

See Department response to 56.

56.

S1, P9, P12

Commentors support the Department's intention to address residual emissions in new rules.

The issue of HAP emissions that remain after MACT is applied was addressed in discussions with the Advisory Committee. The Committee agreed that residual emissions were a concern and could pose a threat to public health and the environment. Risk from residual emissions is a subject that will be addressed by EPA for each industrial source category eight years after the applicable MACT standard is developed. The Committee agreed that the addition of controls during new construction would be more appropriate. The Department proposed the de minimis levels, used in defining a modification, as a threshold at which there was potential for adverse impact on human health and the environment, and therefore as the point at which additional control measures should be considered. Commentors are referred to the Rule Discussion Document (Attachment _____) for additional information on the development of this rule.

OAR 340-32-500 refers to, and OAR 340-32-4500 lists, draft EPA de minimis values for listed hazardous air pollutants. These de minimis values are utilized in the proposed rules: 340-32-500 - Emission Limitations for New Major Sources; and 340-32-4500 - Emission Limitations for Modification of Existing Major Sources. These rules will apply to a new, or modified existing, facility's remaining potential to emit listed HAP after the application of a federal or a state MACT standard. The owner/operator must assess whether the potential to emit each listed HAP, after complying with the emission limitations proscribed by either the Federal or the State MACT process, would be less than the appropriate de minimis values listed in Table 3. If the potential to emit each listed HAP exceeds the Table value, the owner/operator

may propose additional emission reduction measures or the Department may propose rule making to protect public health and the environment. Since additional control requirements would be imposed only through source election or a Commission finding, this provision conforms to the program's statutory authority.

The de minimis values were obtained from a draft document issued by EPA for implementing the provisions of 112(g). The Department presented the draft Table to the Advisory Committee and the recommendation was made to incorporate this table into the rules now so that the Department could implement the provisions for modifications and residual emissions without using valuable resources to generate another table of threshold values. If the EPA promulgates different de minimis values than those in the draft table The Department will initiate the rule revision process.

The Department has revised the rule language to incorporate the comments regarding "potential to emit". The revised rule now requires sources to assess the "actual emissions after MACT is applied".

One comment suggests rule language that would place the burden of addressing residual emissions on the Department. Consistent with other permitting requirements, the burden of proof is upon the source. It is the Department's role to evaluate if the source's demonstration is adequate. If the demonstration is not adequate or the Department believes that the threat to human health and the environment is unacceptable then it is the Department's responsibility to initiate rule making through the EQC to address these concerns. The proposed rule includes a provision for this process.

The Department has incorporated the suggested language that allows sources to avoid proposing additional emission reduction measures by demonstrating through an air quality analysis whether residual emissions have an adverse impact on human health and the environment. The Department will determine on a case-by-case basis whether rule making is needed.

One commentator suggested that the residual emissions provisions should be deleted and that the data gathered under OAR 340-32-240(2)(b) and (c) should be enough to evaluate residual emissions. Rule 340-32-240(2)(b) and (c) has been revised to only require sources to estimate usage of additional chemicals in specified ranges. This reporting requirement does not provide the Department with adequate information to evaluate impacts from residual emissions. In addition, the provisions of the residual emissions rule are not merely a data gathering exercise. Sources must reduce emissions or demonstrate that it is not necessary to reduce emissions beyond MACT, or the Department will initiate rule making to reduce those emissions.

Emission Limitations for Existing Sources

57. P26
340-32-2500(2)(a)(A) & (B), What is the purpose of the "but not limited to" language? What other measures might apply? This language should be deleted unless there is a compelling need to keep it.

The provisions included in 340-32-2500(2)(a)(A) and (B) were written using language taken from the Act under 112(d)(2) and (3) which list the measures to be considered in developing emission standards and state that EPA is not limited to these measures. To be consistent with the Act, the state is also not limited to the listed measures when developing an emissions standard. This is directly from the Act language at 112(d)(2), and will remain unaltered in the Division 32 regulations. Other measures that might apply would include the incorporation of pollution prevention techniques or the modification of work practices.

58. P26
340-32-2500(2)(b), Clarify that it is a federal operating permit that the source must apply for. The second sentence in this paragraph should be deleted, as it is not required by the FCAA. This is more stringent than required.

The suggested clarification has been incorporated into OAR 340-32-2500(b). The second sentence of this rule requires sources to submit the information that was used by the source in evaluating and proposing what MACT should be. It is then the Department's role to determine if what the source has proposed as MACT is equivalent to the best currently operating similar source or the average of the top 12% of similarly operating sources. The requirement that the source provide the data necessary to determine MACT is not inconsistent with or more stringent than the federal requirements.

59. P2, P3, P25, P26
340-32-2500(2), For consistency with 42 USC § 7412(d)(3)(B). Suggest rule be revised to read:
State MACT. After the effective date of the program, if the EPA fails to meet its schedule for promulgating a MACT standard for a source category, the Department shall approve HAP emissions limitations for existing major sources within that category on a case-by-case basis.
(a) Within six months of written notification by the Department of the applicability of a MACT standard the owner or operator of each existing major source within that category shall notify the Department whether that source will:
(B) achieve at least the average emissions limitation achieved in practice by the best performing 12 percent of existing sources for sources in a

category or subcategory with 30 or more sources, or the average emissions limitation achieved by the best performing 5 sources in a category or subcategory with fewer than 30 sources, including, but not limited to, measures listed in OAR 340-32-500(2).

The rule language change suggested by the commentor has been incorporated into OAR 340-32-2500(2)

60. P22
340-32-2500(3)(a), The state MACT timeframe should be consistent with the Federal requirement.

The rule has been revised to include the time frame established by EPA for federally promulgated MACT standards. However, for case by case MACT standards developed by the Department, the source must comply with the time frame established by the Department.

Requirements for Modified Sources

61. P26
340-32-4500(2), Delete "as determined by the Department" because the FCAA requires existing major sources undergoing a modification only to comply with case-by-case MACT standards for existing sources and not for new sources. However, if a source found it more efficient to develop and comply with the new source MACT standard, that should conclusively satisfy the requirement for existing source MACT for modifications.

The issue of reconstruction versus modification at an existing source is currently under debate by the EPA. Reconstruction of a major source would require new source MACT while a modification may require existing source MACT according to the Act (see 112(a) definition of new source and 112(g)(2) Construction Reconstruction, Modifications). The rule discussion document presets several examples of modification for which EPA has not determined whether new or existing source MACT applies. Because of this confusion, the proposed rule allows the Department to determine whether new or existing source MACT applies to modifications until the EPA promulgates rules under 112(g)(2) and clarifies the issue. The Department has revised the rule language, as suggested by the commentor.

Requirements for Area Sources

62. P13
Permit requirements should be made more stringent even for sources that emit less than ten tons per year when they exist close to office buildings.
See Department response to 67.
63. S1, P12
Department should not defer permitting of non-major sources of HAPs.
See Department response to 67.
64. P26
340-32-5000(1)(a), First, only those area sources covered by EPA rule are subject to these requirements. Under FCAA 112(d)(5), GACT or management practices may be required for area sources under FCAA 112(d)(5), in lieu of MACT standards developed under 112(d)(2) or residual risk standards under 112(f). GACT will not be developed by state rule, as it will apply in this state only if the EPA promulgates such a requirement. The area source program under 112(k) does not impose any burdens on the state. This is more stringent than required.
See Department response to 67.
65. P26
340-32-5000(1)(b), Delete this entire paragraph for the reasons stated above.
See Department response to 67.
66. M1, M5, M6, M8, M9, M13, M14, M15, M16, M17, P9, P20
Area HAP sources should not be exempted from Oregon's existing operating permit program.
See Department response to 67.
67. P1
The Federal Register, 57 CFR 31576 (7/16/92), lists eight area source categories subject to Maximum Achievable Control Technology (MACT) standards. The appropriate OAR, 340-32-5000, omits any reference to affected source categories.
The federal program allows states to temporarily defer issuing permits for non-major sources. The EPA is authorizing this provision, under section 70.3, in recognition that states have limited resources to initiate the Title V program. It is expected that within 5 years after a state begins implementing the Title V program for major sources it would be better able to begin permitting non-majors. Even if a state does not

implement the permitting requirements on non-major sources, those sources are still required to comply with any emission standards promulgated by EPA.

The Department believes that, collectively, non-major sources of hazardous air pollutants have a significant adverse impact on air quality and that reduction of emissions from these sources is appropriate and consistent with the Department's mission. However, sources will still be required to comply with any GACT standards promulgated by EPA. The Department has decided to make sure it has implementation of the major source permitting requirements in hand before taking on the tasks associated with area source permitting. However, within 5 years of the date of approval of our program, after gaining experience with the Title V program, the Department will re-consider permitting of area sources.

The Act also gives EPA the authority to permanently exempt non-major source categories from permitting if EPA determines that permitting requirements for those source categories would be impracticable, infeasible, or unnecessarily burdensome. The EPA has already determined to permanently exempt non-major residential wood heaters and non-major asbestos demolition and renovation sources from Title V permitting requirements. These categories are included in the Department's deferral.

OAR 340-32-5000 has been substantially revised to clarify that non-major sources are currently not required to obtain permits but that it is the Department's intent to provide the framework for adopting GACT standards as they are promulgated pursuant to 112(d) and 112(k). In addition, the Department has included the framework for potentially developing its own area source GACT standards found to cause adverse effects in Oregon. The statutory constraint restricting regulation of major sources under Title V is not applicable to these non-major sources. The revised language is intended to make it clear that these sources will be regulated even though permits are not now required.

68.

P13

Stricter requirements should be set on the airborne toxins released by auto painters.

Most auto painting operations will be hazardous air pollutant area sources. The EPA has allowed, and Oregon's planned implementation of Title V provides for, temporarily deferring the permitting requirements for all non-major sources. These sources will still be required to comply with any control requirements that are promulgated by the EPA or adopted in Oregon rules.

Accidental Release Prevention

69.

P26

340-32-5100(1) [renumbered to 340-32-5400], The Department should ensure that the EPA Part 63 rule is final prior to incorporating Table 4 into state rule. Better yet, the Department should delay adoption of any accidental release requirements until after EPA regulations are final.

The Department is required to include provisions relating to accidental releases in the program for submittal to EPA by November 15, 1993. In rule OAR 340-32-5400 the Department establishes the framework for the accidental release program. The Department decided to incorporate EPA's proposed list to avoid expending Department resources now on developing a list that EPA will be promulgating in the near future. The Department will initiate rule making if EPA's final promulgated list deviates from the proposed list.

70.

P26

340-32-5100(2), This clause is far broader than that required by § 112(r). The general duty under the FCAA is "to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur." Moreover, the proposal omits extremely important language from § 112(r) pertaining to limitations of liability under citizen suit provisions of the FCAA and suits for injury or property damage due to releases. This is more stringent than required.

The General Duty rule proposed was a paraphrase of the one in the Act and did lack significant language. However, the Department has decided to delete the rule entirely at this time and wait until the EPA promulgates its rules on Accidental Releases before deciding whether a broad requirement such as this would be of benefit. Therefore, the limitation on liability is not needed.

71.

P26

340-32-5100(3)-(5) [renumbered to 340-32-5400], Risk Management Plans are not required until such time as the EPA promulgates regulations under FCAA § 112(r)(7)(B). Until such time, the Department must have a scientifically defensible need to address accidental releases. This paragraph should be deleted and rulemaking should be initiated after EPA regulations are final. This is more stringent than required.

The Department agrees with the comment and has revised the rule to clarify that these plans will be required according to the schedule promulgated by the EPA.

72.

P10

Risk Management Plans to prevent accidental release may be required for a facility

because of onsite storage of one listed chemical, even though the facility is not a Title III source. Commentor's facility has already developed a plan under Clean Water Act and local ordinance requirements. Commentor strongly urges integration of RMP requirements with existing requirements under other federal, state and local regulations.

The Department agrees with the comment that the requirements for Risk Management Plans should be integrated with existing State and Federal requirements for prevention, detection, and control of accidental releases. The Act specifically directs the EPA to coordinate with the Occupational Safety and Health Administration and the Department of Transportation in its rule making. In addition, the Department has already initiated discussions with Oregon Accident Response System members to ensure that State rules provide an integrated, comprehensive and effective approach to preventing and controlling accidental releases of hazardous air pollutants. The Department anticipates further efforts to integrate the various requirements and welcomes the participation of sources subject to the requirements.

73.

P26

340-32-5100 [renumbered to OAR 340-32-5400], The proposal omits the important provision of FCAA § 112(r)(7)(F) that sources are not subject to the federal operating permit program solely because the source is subject to requirements for accidental releases.

The Department agrees with this comment, and has incorporated the provisions of 112(r)(7)(F) in the final regulations under 340-32-220.

**CHANGES TO ORIGINAL RULEMAKING PROPOSAL (DIVISION 28)
MADE IN RESPONSE TO PUBLIC COMMENT**

RULE NUMBER	CHANGE
340-28-100	Replace "division" with "Division"
340-28-110(2)(a)	<p>Delete "(2) "Actual emissions" means the mass rate of emissions of a pollutant from an emissions source{+}.</p> <p>(a) {In general,}<u>As used in OAR 340-28-1000 through 340-28-1050, Plant Site Emission Limits, and OAR 340-28-1900 through 340-28-2000, New Source Review and sections (11), (23), (52), and (55) of this rule:</u></p> <p>(A) actual emissions as of the baseline period shall equal the average rate at which the source actually emitted the pollutant during a baseline period and which is representative of normal source operation. 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;</p> <p>{b}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;</p> <p>{c}C) For any newly permitted emissions source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source. <u>(Renumbered from OAR 340-20-305(1))</u></p>
340-28-110(2)(b)	<p>Delete "(2)(b) As used in OAR 340-28-1500 through 340-28-1520, Emission Statements, OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees, and sections (24) and (35) of this rule, actual emissions include, but are {"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. (Renumbered from OAR 340-20-460(1))."</p>

RULE NUMBER	CHANGE
340-28-110(3)	<p>Delete</p> <p>"(3) "Actual emissions for fee purposes" means the actual rate of emissions in tons per year of any regulated air pollutant (for presumptive fee calculation) emitted from a federal operating permit program source over the preceding calendar year or any other period determined by the Department to be representative of normal source operation and consistent with the fee schedule."</p>
340-28-110(2)(a)	<p>Add</p> <p>"(2) "Actual emissions" means the mass rate of emissions of a pollutant from an emissions source <u>during a specified time period. Actual emissions shall be directly measured with a continuous monitoring system or calculated using a verified emission factor in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the selected time period{+}</u>.</p> <p>(a) {In general,} <u>For purposes of determining actual emissions as of the baseline period:</u></p> <p>(A) <u>Except as provided in paragraphs (B) and (C) of this subsection, actual emissions {as of the baseline period }shall equal the average rate at which the source actually emitted the pollutant during a baseline period and which is representative of normal source operation{. 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};</u></p> <p>{b}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;</p> <p>{c}C) For any newly permitted emissions source which had not yet begun normal operation in the baseline period, actual emissions shall equal the potential to emit of the source. <u>(Renumbered from OAR 340-20-305(1))</u></p>

RULE NUMBER	CHANGE
340-28-110(2)(b)	Add <u>"(2)(b) For purposes of determining actual emissions for Emission Statements under OAR 340-28-1500 through 340-28-1520, and Major Source Interim Emission Fees under OAR 340-28-2400 through 340-28-2550, actual emissions include, but are not limited to routine process emissions, fugitive emissions, excess emissions from maintenance, startups and shutdowns, equipment malfunction, and other activities. (Renumbered from OAR 340-20-460(1))"</u>
340-28-110(2)(c)	Add "(2)(c) For purposes of determining actual emissions in the calculation of fees for a federal operating permit program source, actual emissions shall equal the actual rate of emissions in tons per year of any regulated air pollutant emitted from the source over the preceding calendar year or any other period determined by the Department or Lane Regional Air Pollution Authority to be representative of normal source operation and consistent with the fee schedule."
340-28-110(6)	Add "as defined in OAR 340-28-110" after the words "regulated air pollutant"
340-28-110(8)	Replace "340-28-1770" with "340-28-1790"
340-28-110(9)	Replace "EPA" with "the EPA"
340-28-110(9)(a)	Replace "EPA" with "the EPA"
340-28-110(9)(b)	Replace "EPA" with "the EPA"
340-28-110(9)(c) and (d)	Add "issued" before the word "before"
340-28-110(10)	Add "owner or operator" before the words "will be assessed"
340-28-110(15)	Add "as used in OAR 340-28-2400 through 340-28-2550" after the words "Calculated Emissions"

RULE NUMBER	CHANGE
340-28-110(16)	<p>Replace "an activity not included in 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 the Standard Industrial Classification Manual (U.S. Office of Management and Budget, 1987) including on-site motor vehicle operation at sources not associated with large amounts of fugitive road dust; natural gas and distillate oil space heating rated at less than 10 million British thermal units/hour; office activities; food service activities; janitorial activities; all personal care activities; groundskeeping activities; or on-site laundry activities." with "one of the following Departmentally approved activities:</p> <ul style="list-style-type: none"> - evaporative and tail pipe emissions from on-site motor vehicle operation; - natural gas and distillate oil space heating rated at less than 10 million British Thermal Units/hour; - office activities; - food service activities; - janitorial activities; - personal care activities; - groundskeeping activities; - on-site laundry activities; - instrument calibration; - pharmaceutical packaging; - fire suppression; and - blueprint making."
340-28-110(23)	Delete "sections (11), (20), (55), and (80) of"
340-28-110(25)(b)	Change "340-28-2300" to "340-28-2320"
340-28-110(25)(b)	Delete "and sections (27), (45), and (74) of this rule"
340-28-110(25)(b)	Delete "the" before the words "Lane Regional"
340-28-110(27)	Add "or Lane Regional Air Pollution Authority" after the words "the Department"
340-28-110(27)	Change "340-28-2280" to "340-28-2290" and "340-28-2300" to "340-28-2310"
340-28-110(27)	Replace "EPA" with "the EPA"
340-28-110(28)	Replace "of EPA" with "of the EPA"
340-28-110(29)	Change "source" to "owner or operator"
340-28-110(36)	Delete "or any pollutant listed under section 112(b) of the Act" after the words "emit any regulated air pollutant"
340-28-110(36)(a)	Delete "produces or" before the words "emits air pollutants"

RULE NUMBER	CHANGE
340-28-110(36)(d)	Added "or for purposes of determining the applicability of any New Source Performance Standard (NSPS)" after the words "or OAR 340-28-1940"
340-28-110(38)	Delete "any period of"
340-28-110(38)	Add "which arise from the same condition and which occur during a single calendar day or continue into subsequent calendar days" after the words "excess emissions"
340-28-110(41)	Change "340-28-2300" to "340-28-2320"
340-28-110(41)	Delete " and includes the application review report"
340-28-110(43)	Change "340-28-2300" to "340-28-2320"
340-28-110(44)	Add "or Lane Regional Air Pollution Authority" after the words "the Department"
340-28-110(44)	Change "340-28-2300" to "340-28-2320"
340-28-110(45)(a)	Replace "paragraph (56)(b)" with "subsection (b) of this section,"
340-28-110(45)(b)	Replace "in paragraph (56)(b)" with "to define a major federal operating permit program source,"
340-28-110(49)	<p>Replace "a change or modification or addition of a categorically insignificant activity or insignificant mixture usage which does not cause emissions to exceed the applicable aggregate insignificant emission levels, and satisfies the following:</p> <ul style="list-style-type: none"> (a) The change does not invoke another applicable permit term or condition; (b) The change does not contravene an existing federal operating permit term or condition; (c) The change does not constitute a Title I modification and; (d) the change does not relax any existing federal operating permit term or condition." <p>with</p> <p>"an off-permit change defined under OAR 340-28-2220(2)(a) to either a significant or an insignificant activity which:</p> <ul style="list-style-type: none"> (a) does not result in a redesignation from an insignificant to a significant activity; (b) does not invoke an applicable requirement not included in the permit; and (c) does not result in emission of regulated air pollutants not regulated by the source's permit."
340-28-110(54)	Replace " h Hazardous a Air p Pollutants(<u>HAP</u>)" with "hazardous air pollutants"
340-28-110(55)	Add "as used in this Division" after the words "Major Modification"

RULE NUMBER	CHANGE
340-28-110(55)	Replace "in definition (f25 83)" with "OAR 340-28-110"
340-28-110(55)	Change the word "modification" to "modifications" and "becomes" to "become" in the last sentence.
340-28-110(56)(a)	Delete "stationary" after the words "means a"
340-28-110(56)(b)	Change "340-28-2300" to "340-28-2320"
340-28-110(56)(b)	Add "are" after the words "major industrial grouping or"
340-28-110(56)(b)(A)	Replace "under section 112 of the Act" with "of hazardous air pollutants"
340-28-110(56)(b)(A)(i)	Replace "HAP" with "hazardous air pollutants" in two instances and "section 112(b) of the Act" with "OAR 340-32-130"
340-28-110(56)	Replace "OAR 340-28-1500 through 340-28-1520, Emission Statements for VOC and NO _x Sources in Ozone Nonattainment Areas" with "OAR 340-28-2400 through 340-28-2550, Major Source Interim Emission Fees"
340-28-110(59)	Replace "EPA" with "the EPA"
340-28-110(72)	Change "section" to "definition and "section" to "term"
340-28-110(74)	Add "or Lane Regional Air Pollution Authority" after the words "the Department"
340-28-110(74)	Change "340-28-2300" to "340-28-2310"
340-28-110(76)(a)	Change "340-28-2300" to "340-28-2320"
340-28-110(76)(a)(E)	Delete "(E) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r) of the Act, including the following: (i) Any pollutant subject to requirements under section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act;" and (ii) Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to section 112(g)(2) requirement;"

RULE NUMBER	CHANGE
340-28-110(76)(a)(F)	Add "or OAR 340-32-5400" after the words "OAR 340-32-130"
340-28-110(76)(a)(F)	Renumber (F) to (E)
340-28-110(79)(a)(B)	Add "or Lane Regional Air Pollution Authority" after the words "the Department"
340-28-110(79)(c)	Replace "EPA" with "the EPA"
340-28-110(86)	Delete "or "Stationary source"" before the words "means any"
340-28-110(86)	Delete "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)."
340-28-110(88)	Delete the strikeout of "the average of "
340-28-110(88)	Delete "For some batch processes, the Department may approve fewer test runs unless otherwise required by applicable EPA rules."
340-28-110(90)	Delete "as used in OAR 340-28-2100 through 2300, Rules Applicable to Sources Required to Have Federal Operating Permits,
340-28-110(90)	Delete "or any pollutant listed under section 112(b) of the Act"
340-28-110(92)	Delete "(56)(b)"
340-28-110(92)	Change "capacity" to "potential"
340-28-110(99)(b)	Add "Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds, as listed in subsection (a), may be excluded as VOC if the amount of such compounds is accurately quantified, and such exclusion is approved by the Department." after the words "Source Sampling Manual, January, 1992."
340-28-110(99)	Add "(c) As a precondition to excluding these compounds, as listed in subsection (a), as VOC or at any time thereafter, the Department may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Department, the amount of negligibly-reactive compounds in the source's emissions."
340-28-110(4)	Renumber to OAR 340-28-110(3)
340-28-110(5)	Renumber to OAR 340-28-110(4)
340-28-110(6)	Renumber to OAR 340-28-110(5)
340-28-110(7)	Renumber to OAR 340-28-110(6)

RULE NUMBER	CHANGE
340-28-110(8)	Renumber to OAR 340-28-110(7)
340-28-110(9)	Renumber to OAR 340-28-110(8)
340-28-110(10)	Renumber to OAR 340-28-110(9)
340-28-110(11)	Renumber to OAR 340-28-110(10)
340-28-110(12)	Renumber to OAR 340-28-110(11)
340-28-110(13)	Renumber to OAR 340-28-110(12)
340-28-110(14)	Renumber to OAR 340-28-110(13)
340-28-110(15)	Renumber to OAR 340-28-110(14)
340-28-110(16)	Renumber to OAR 340-28-110(15)
340-28-110(17)	Renumber to OAR 340-28-110(16)
340-28-110(18)	Renumber to OAR 340-28-110(17)
340-28-110(19)	Renumber to OAR 340-28-110(18)
340-28-110(20)	Renumber to OAR 340-28-110(19)
340-28-110(21)	Renumber to OAR 340-28-110(20)
340-28-110(22)	Renumber to OAR 340-28-110(21)
340-28-110(23)	Renumber to OAR 340-28-110(22)
340-28-110(24)	Renumber to OAR 340-28-110(23)
340-28-110(25)	Renumber to OAR 340-28-110(24)
340-28-110(26)	Renumber to OAR 340-28-110(25)
340-28-110(27)	Renumber to OAR 340-28-110(26)
340-28-110(28)	Renumber to OAR 340-28-110(27)
340-28-110(29)	Renumber to OAR 340-28-110(28)
340-28-110(30)	Renumber to OAR 340-28-110(29)
340-28-110(31)	Renumber to OAR 340-28-110(30)
340-28-110(32)	Renumber to OAR 340-28-110(31)
340-28-110(33)	Renumber to OAR 340-28-110(32)
340-28-110(34)	Renumber to OAR 340-28-110(33)
340-28-110(35)	Renumber to OAR 340-28-110(34)
340-28-110(36)	Renumber to OAR 340-28-110(35)
340-28-110(37)	Renumber to OAR 340-28-110(36)
340-28-110(38)	Renumber to OAR 340-28-110(37)
340-28-110(39)	Renumber to OAR 340-28-110(38)
340-28-110(40)	Renumber to OAR 340-28-110(39)

RULE NUMBER	CHANGE
340-28-110(41)	Renumber to OAR 340-28-110(40)
340-28-110(42)	Renumber to OAR 340-28-110(41)
340-28-110(43)	Renumber to OAR 340-28-110(42)
340-28-110(44)	Renumber to OAR 340-28-110(43)
340-28-110(45)	Renumber to OAR 340-28-110(44)
340-28-110(46)	Renumber to OAR 340-28-110(45)
340-28-110(47)	Renumber to OAR 340-28-110(46)
340-28-110(48)	Renumber to OAR 340-28-110(47)
340-28-110(81)	Renumber to OAR 340-28-110(100)
340-28-110(82)	Renumber to OAR 340-28-110(103)
340-28-110(83)	Renumber to OAR 340-28-110(104)
340-28-110(84)	Renumber to OAR 340-28-110(105)
340-28-110(85)	Renumber to OAR 340-28-110(106)
340-28-110(86)	Renumber to OAR 340-28-110(107)
340-28-110(87)	Renumber to OAR 340-28-110(108)
340-28-110(88)	Renumber to OAR 340-28-110(109)
340-28-110(89)	Renumber to OAR 340-28-110(110)
340-28-110(90)	Renumber to OAR 340-28-110(111)
340-28-110(91)	Renumber to OAR 340-28-110(112)
340-28-110(92)	Renumber to OAR 340-28-110(113)
340-28-110(93)	Renumber to OAR 340-28-110(114)
340-28-110(94)	Renumber to OAR 340-28-110(115)
340-28-110(95)	Renumber to OAR 340-28-110(116)
340-28-110(96)	Renumber to OAR 340-28-110(117)
340-28-110(97)	Renumber to OAR 340-28-110(118)
340-28-110(98)	Renumber to OAR 340-28-110(119)
340-28-110(99)	Renumber to OAR 340-28-110(120)
340-28-110(48)	Add the following definition: "Insignificant Activity" means an activity or emission that the Department has designated as categorically insignificant, insignificant mixture usage, or aggregately insignificant.
340-28-110(81)	Add the following definition: "Section 111" means that section of the FCAA that includes Standards of Performance for New Stationary Sources (NSPS).

RULE NUMBER	CHANGE
340-28-110(82)	Add the following definition: "Section 111(d)" means that subsection of the FCAA that requires states to submit plans to the EPA which establish standards of performance for existing sources and provides for the implementation and enforcement of such standards.
340-28-110(83)	Add the following definition: "Section 112" means that section of the FCAA that contains regulations for Hazardous Air Pollutants (HAP).
340-28-110(84)	Add the following definition: "Section 112(b)" means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated.
340-28-110(85)	Add the following definition: "Section 112(d)" means that subsection of the FCAA that directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by the EPA when establishing the emission standards.
340-28-110(86)	Add the following definition: "Section 112(e)" means that subsection of the FCAA that directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.
340-28-110(87)	Add the following definition: "Section 112(r)(7)" means that subsection of the FCAA that requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.
340-28-110(88)	Add the following definition: "Section 114(a)(3)" means that subsection of the FCAA that requires enhanced monitoring and submission of compliance certifications for major sources.
340-28-110(89)	Add the following definition: "Section 129" means that section of the FCAA that requires the EPA to establish emission standards and other requirements for solid waste incineration units.
340-28-110(90)	Add the following definition: "Section 129(e)" means that subsection of the FCAA that requires solid waste incineration units to obtain federal operating permits.
340-28-110(91)	Add the following definition: "Section 182(f)" means that subsection of the FCAA that requires states to include plan provisions in the State Implementation Plan for NO _x in ozone nonattainment areas.

RULE NUMBER	CHANGE
340-28-110(92)	Add the following definition: "Section 182(f)(1)" means that subsection of the FCAA that requires states to apply those plan provisions developed for major VOC sources and major NO _x sources in ozone nonattainment areas.
340-28-110(93)	Add the following definition: "Section 183(e)" means that subsection of the FCAA that requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.
340-28-110(94)	Add the following definition: "Section 183(f)" means that subsection of the FCAA that requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.
340-28-110(95)	Add the following definition: "Section 184" means that section of the FCAA that contains regulations for the control of interstate ozone air pollution.
340-28-110(96)	Add the following definition: "Section 302" means that section of the FCAA that contains definitions for general and administrative purposes in the Act.
340-28-110(97)	Add the following definition: "Section 302(j)" means that subsection of the FCAA that contains definitions of "major stationary source" and "major emitting facility."
340-28-110(98)	Add the following definition: "Section 328" means that section of the FCAA that contains regulations for air pollution from outer continental shelf activities.
340-28-110(99)	Add the following definition: "Section 408(a)" means that subsection of the FCAA that contains regulations for the Title IV permit program.
340-28-110(101)	Add the following definition: "Section 504(b)" means that subsection of the FCAA that states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.
340-28-110(102)	Add the following definition: "Section 504(e)" means that subsection of the FCAA that contains regulations for permit requirements for temporary sources.
340-28-200	Add "Unless these rules specify otherwise," before the words "OAR 340-28-200 through 340-28-820"
340-28-300	Delete "carrying out all aspects of the" and add "regulating" before the word "stationary"
340-28-300	Change "source" to "sources" and delete "control program"
340-28-400(2)	Change "a source" to "an owner or operator"

RULE NUMBER	CHANGE
340-28-400(2)	Change "source" to "owner or operator"
340-28-400(2)(b)	Change "source" to "owner or operator"
340-28-500	Add "the" before the words "federal operating"
340-28-500	Change "340-28-2300" to "340-28-2320"
340-28-800	Add "OAR 340-28-800 through 340-28-820 shall not apply to federal operating permit program sources." at the end of the rule.
340-28-820(6)	Delete "Where a federal operating permit would prohibit such construction or a change in operation, the owner or operator of the air contamination source shall obtain a permit revision before commencing operation."
340-28-1000	Replace "1050" with "1060"
340-28-1010(1)	Add "except as required by OAR 340-28-1050" after the words "regulated pollutants"
340-28-1020(7)(c)	Change "340-28-2300" to "340-28-2320"
340-28-1020(7)(d)	Change "340-28-2270" to "340-28-2280"
340-28-1050(1)	Delete "section 112(b) of the FCAA or" before the words "OAR 340-32-130"
340-28-1050(1)	Add "or OAR 340-32-5400" after the words "OAR 340-32-130"
340-28-1050(1)	Delete "air" after the words "shall not be considered regulated"
340-28-1050(2)(a)	Change "a source" to "an owner or operator"
340-28-1050(3)	Replace "with the following exceptions" with "except for the following:"
340-28-1060	Add "Plant Site Emission Limits for Insignificant Activities 340-28-1060"
340-28-1060(1)	Add "(1) For purposes of establishing PSELS, emissions from categorically insignificant activities listed in OAR 340-28-110 shall not be considered regulated air pollutants under OAR 340-28-1010 until such time as the Commission determines otherwise, except as provided in section (3)."
340-28-1060(2)	Add "(2) For purposes of establishing PSELS, emissions from insignificant mixture usage and aggregate insignificant emissions, listed in OAR 340-28-110 shall be considered regulated air pollutants under OAR 340-28-1010."

RULE NUMBER	CHANGE
340-28-1060(3)	Add "(3) For purposes of determining New Source Review or Prevention of Significant Deterioration applicability, OAR 340-28-1900 through 340-28-2000, emissions from insignificant activities shall be considered."
340-28-1110(3)(f)	Replace "EPA" with "the EPA"
340-28-1140(2)	Add "A more frequent basis for reporting may be required due to noncompliance or to protect human health or the environment." after the words "December 31."
340-28-1410(1)(a)	Replace "could " with "can" after the words "startup and shutdown"
340-28-1410(1)(b)	Replace "causing" with "that causes" after the words "process or system"
340-28-1410(3)	Replace " Sources shall notify the Department of a planned startup or shutdown event which may result in excess emissions if required by permit condition or if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards. When required, notification shall be made by telephone or in writing as soon as possible prior to the event and shall include the date and estimated time and duration of the startup or shutdown event." with "Once startup/shutdown procedures are approved, owners or operators shall not be required to notify the Department of a planned startup or shutdown event which may result in excess emissions unless: (a) required by permit condition; or (b) if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards."
340-28-1410(4)	Change "source" to "owner or operator"
340-28-1410(4)	Re-number (4) to (5)
340-28-1410(5)	Re-number (5) to (6)
340-28-1410(6)	Re-number (6) to (7)
340-28-1410(4)	Add "(4) When required by subsection (3)(a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the startup or shutdown event and shall include the date and estimated time and duration of the event."

RULE NUMBER	CHANGE
340-28-1420(3)	<p>Replace " Sources shall notify the Department of a scheduled maintenance event which may result in excess emissions if required by permit condition or if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards. When required, notification shall be made by telephone or in writing as soon as possible prior to the event and shall include the date and estimated time and duration of the scheduled maintenance event." with</p> <p>"Once maintenance procedures are approved, owners or operators shall not be required to notify the Department of a scheduled maintenance event which may result in excess emissions unless:</p> <p>(a) required by permit condition; or</p> <p>(b) if the source is located in a nonattainment area for a pollutant which may be emitted in excess of applicable standards."</p>
340-28-1420(4)	Change "source" to "owner or operator"
340-28-1420(4)	ReNUMBER (4) to (5)
340-28-1420(5)	ReNUMBER (5) to (6)
340-28-1420(6)	ReNUMBER (6) to (7)
340-28-1420(4)	<p>Add</p> <p>"(4) When required by subsection (3)(a) or (b) of this rule, notification shall be made by telephone or in writing as soon as possible prior to the scheduled maintenance event and shall include the date and estimated time and duration of the event."</p>
340-28-1430(1)	Change "source" to "owner or operator"
340-28-1430(1)(b)	Change "source" to "owner or operator"
340-28-1430(2)	<p>Add "In the case of all other upsets and breakdowns, the following requirements apply:</p> <p>(a)" before the words "For large sources"</p>
340-28-1430(2)	Replace "all" with "the first onset per calendar day of any"
340-28-1430(2)	Add "event" after the words "excess emissions"
340-28-1430(3)	Add "events" after the words "need not report excess emissions"
340-28-1430(3)	ReNUMBER (3) to (2)(b) and indent
340-28-1430(4)	Change "a source" to "an owner or operator"
340-28-1430(5)	Change "source" to "owner or operator" in two instances
340-28-1430(5)	Change "it" to "he or she"
340-28-1430(6)	Change "source" to "owner or operator"

RULE NUMBER	CHANGE
340-28-1430(6)	Add "of the equipment of facility" after the words "cease operation"
340-28-1430(4)	Re-number (4) to (3)
340-28-1430(5)	Re-number (5) to (4)
340-28-1430(6)	Re-number (6) to (5)
340-28-1440(1)	Delete "period of" after the words "For any"
340-28-1440(1)	Add " event" after the words "excess emissions"
340-28-1440(1)	Change "source" to "owner or operator"
340-28-1440(1)	Add "for each calendar day of the event. If required, this report shall be submitted" after the words "written excess emission report"
340-28-1440(1)	Replace ", which includes" with " and shall include"
340-28-1440(1)(a)	Replace "each" with "the"
340-28-1440(2)	Change "source" to "owner or operator"
340-28-1440(3)	Replace "sources" with "source owners or operators"
340-28-1440(4)(b)	Change "source" to "owner or operator"
340-28-1450	Change "source" to "owner or operator"
340-28-1450(1)	Change "source" to "owner or operator"
340-28-1450(3)(d)	Add "and duration of each occurrence" after the word "magnitude"
340-28-1450(3)(d)	Add "excess" before the word "emissions"
340-28-1450(3)(d)	Add "during the course of an event" before the words "and the increase over"
340-28-1450(6)	Change "source" to "owner or operator" in two instances
340-28-1500(3)	Add "owners or operators of " before the words "VOC and NO _x "
340-28-1500(3)	Replace "Other" with "Owners or operators of other"
340-28-1510(1)	Change "Sources" to "Owners or operators" and "source" to "owner or operator"
340-28-1510(1)	Add "sources" after the words "VOC and NO _x "
340-28-1510(2)	Change "Sources" to "Owners or operators" and "source" to "owner or operator"

RULE NUMBER	CHANGE
340-28-1700	Add " OAR 340-28-1700 through 340-28-1790 shall not apply to federal operating permit program sources unless an ACDP is required by OAR 340-28-1720(2), OAR 340-28-1720(4), OAR 340-28-1740, or OAR 340-28-1900(1)." at the end of the rule.
340-28-1720(3)	Add " and not required to obtain a federal operating permit" after the words "through 340-28-1790"
340-28-1720(4)	Change "source" to "owner or operator"
340-28-1720(2)	Re-number (2) to (3)
340-28-1720(3)	Re-number (3) to (6)
340-28-1720(4)	Re-number (4) to (7)
340-28-1720(5)	Re-number (5) to (8)
340-28-1720(2)	<p>Add "(2) No person shall construct, install, establish, or develop any major source, as defined by OAR 340-28-2110 that will be subject to the federal operating permit program without first obtaining an ACDP from the Department or Regional Authority. Any federal operating permit program source required to have obtained an ACDP prior to construction shall:</p> <ul style="list-style-type: none"> (a) choose to become a synthetic minor source, OAR 340-28-1740, and remain in the ACDP program; or (b) file a complete application to obtain the federal operating permit within 12 months after initial startup."
340-28-1720(4)	<p>Add "(4) No person shall modify any source required to be covered by a permit under OAR 340-28-1700 through 340-28-1790 such that the source becomes subject to the federal operating permit program, OAR 340-28-2100 through 340-28-2320 without first applying for and obtaining a modified ACDP. Any federal operating permit program source required to have obtained an ACDP prior to modification shall:</p> <ul style="list-style-type: none"> (a) choose to become a synthetic minor source, OAR 340-28-1740, and remain in the ACDP program; (a) choose to remain a synthetic minor source, OAR 340-28-1740, and remain in the ACDP program; or (b) file a complete application to obtain the federal operating permit within 12 months after initial startup of the modification."
340-28-1720(5)	Add "No person shall increase emissions above the PSEL or operate in excess of the enforceable condition to limit potential to emit and remain a synthetic minor source without first applying for and obtaining a modified ACDP."

RULE NUMBER	CHANGE
340-28-1740(1)	Delete "PSELS alone are not adequate to limit a source's potential to emit."
340-28-1740(1)	Replace "Enforceable conditions, in addition to and notwithstanding OAR 340-28-1000 through 340-28-1050, may include one or more of the following physical or operational limitations:" with "Enforceable conditions, in addition to the PSEL established under OAR 340-28-1000 through 340-28-1060, shall include one or more of the following physical or operational limitations but in no case shall exceed the conditions used to establish the PSEL:"
340-28-1740(2)	Change "OAR 340-28-2130(1)(c)" to "OAR 340-28-1100 through 340-28-1140"
340-28-1740(3)	Add "the owner or operator of" before the words "a major source"
340-28-1740(3)	Change "source" to "owner or operator"
340-28-1740(3)	Replace "340-28-110" with "340-28-2110"
340-28-1740(3)	Delete "(56)(b)"
340-28-1740(3)	Replace "submit a timely and complete application for" with "obtain"
340-28-1740(3)	Replace "requesting" with "containing"
340-28-1740(4)	Replace "that are substantially equivalent to the requirements of OAR 340-28-2280 and 340-28-2300" with "of OAR 340-28-1710"
340-28-1740(5)	<p>Replace "Synthetic minor source owners or operators who request an increase in the source potential to emit above any applicable major source emission rate threshold shall become subject to OAR 340-28-2100 through 340-28-2300 and shall submit a permit application under OAR 340-28-2120." with</p> <p>"Synthetic minor source owners or operators who cause their source to be subject to the federal operating permit program by requesting an increase in the source's potential to emit, when that increase uses the source's existing capacity and does not result from construction or modification, shall:</p> <ul style="list-style-type: none"> (a) become subject to OAR 340-28-2100 through 340-28-2320; (b) submit a permit application under OAR 340-28-2120; and (c) receive a federal operating permit before commencing operation in excess of the enforceable condition to limit potential to emit.
340-28-1740(5)	Re-number (6) to (7)

RULE NUMBER	CHANGE
340-28-1740(6)	Add "(6) Synthetic minor source owners or operators who cause their source to be subject to the federal operating permit program by requesting an increase in the source's potential to emit, when that increase is the result of construction or modification, shall: (a) submit an application for the modification of the existing ACDP; (b) receive the modified ACDP before beginning construction or modification; (c) become subject to OAR 340-28-2100 through 340-28-2320; and (d) submit a permit application under OAR 340-28-2120 to obtain a federal operating permit within 12 months after initial startup of the construction or modification.
340-28-1750(13)	Delete repeated "on or before the due date of the annual compliance determination fee"
340-28-1750(14)	Replace "Sources" with "Owners or operators" in two instances
340-28-1750(14)	Replace "which" with "who"
340-28-1750 Table 4, 54.a)	Add " " before the word "processed"
340-28-1750 Table 4, 58.	Add " " before the words "(Fees will be based" and before "fuel burning equipment"
340-28-1750 Table 4, 59.	Add " " before the words "(Fees will be based" and before "fuel burning equipment"
340-28-1750 Table 4, 60.	Add " " before the words "(Fees will be based" and before "fuel burning equipment"
340-28-1750 Table 4, 61.	Delete "." after the words "were to operate uncontrolled"
340-28-1750 Table 4, 62.b)	Add " " before "b)"
340-28-1750 Table 4, 68.	Delete strikeout of "," and add " 2672" before ",3861" and add " " before "3861"
340-28-1750 Table 4, 71.	Add " " before the words "printing, 60 or more"
340-28-1750 Table 4, 75.	Delete " " before "a)" and "b)"
340-28-1910(1)(g)	Replace "A" with "The owner or operator of a"
340-28-1910(1)(g)	Replace "that applies" with "who applies"
340-28-1910(1)(g)	Change "340-28-2280" to "340-28-2290" and "340-28-2300" to "340-28-2310"
340-28-1910(2)(d)	Add "a source under" before the words "an ACDP"

RULE NUMBER	CHANGE
340-28-1910(3)(b)(C)	Add "New Source Review" before the word "process" and add ", including the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310," before the word "is"
340-28-1910(3)(b)(I)	Add "the owner or operator of" before the words "a source subject"
340-28-1910(3)(b)(I)	Replace "that has received" with "who has received"
340-28-1910(3)(b)(I)	Replace "start-up of operation" with "startup of the construction or modification"
340-28-1940(2)(b)	Add ", then the owner or operator of that source or modification," after the words "nonattainment area"
340-28-1940(2)(b)	Replace "are" with "is" and replace "their" with "its"
340-28-1940(3)(b)	Strikeout "Air Contaminant Discharge Permit" and replace with "ACDP"
340-28-1940(3)(c)(ii)	Add "owner or operator of the" before the words "proposed source or modification"
340-28-1940(4)	Delete strikeout of "U.S. Environmental Protection Agency" and delete redline of "EPA" in two instances
340-28-1940(5)(a)(C)(v)	Replace "is required to perform" with "requires"
340-28-1980(4)	Change "340-28-2270" to "340-28-2280"
340-28-2000(1)(b)	Replace "Proposed" with "Owners or operators of proposed"
340-28-2000(4)(a)	Replace "of major modification would not" with "or major modification would not"
340-28-2000(6)(d)	Replace "of modification would have" with "or modification would have"
340-28-2100	Replace "Act" with "FCAA"
340-28-2100(1)	Change "340-28-2300" to "340-28-2320"
340-28-2100(3)	Change "340-28-2300" to "340-28-2320"

RULE NUMBER	CHANGE
340-28-2100(3)	<p>Replace "are exempt from registration as required by ORS 468A.050 and OAR 340-28-500 through 340-28-520, and from OAR 340, Division 14" with "are exempt from the following:</p> <ul style="list-style-type: none"> (a) registration as required by ORS 468A.050 and OAR 340-28-500 through 340-28-520, (b) Notice of Construction and Approval of Plans, OAR 340-28-800 through 340-28-820; (c) Air Contaminant Discharge Permits, OAR 340-28-1700 through 340-28-1790, unless required by OAR 340-28-1900(1); and (d) OAR 340, Division 14"
340-28-2100(4)	<p>Delete "(4) The requirements of ORS 468A.075 shall not apply to sources subject to OAR 340-28-2100 through 340-28-2300."</p>
340-28-2110(1)	Change "340-28-2300" to "340-28-2320"
340-28-2110(2)	<p>Replace "Any source subject to OAR 340-28-2100 through 340-28-2300 whose potential to emit falls below the applicable major source emission rate threshold may submit a request for revocation of a federal operating permit." with "The owner or operator of a source with a federal operating permit whose potential to emit later falls below the emission level that causes it to be a major source, and which is not otherwise required to have a federal operating permit, may submit a request for revocation of the federal operating permit."</p>
340-28-2110(3)	Change "Minor Source" to "minor source"
340-28-2110(3)(a)	Change "340-28-2300" to "340-28-2320"
340-28-2110(3)(a)	Replace "major source emission rate thresholds of OAR 340-28-110" with "level that causes it to be a major source"
340-28-2110(3)(a)	Delete "(56)(b)"
340-28-2110(3)(b)	Replace "340-28-2130(3)" with "340-28-1100 through 340-28-1140"
340-28-2110(3)(c)	Change "340-28-2300" to "340-28-2320"
340-28-2110(3)(c)	Add "in accordance with OAR 340-28-1740" after the words "under OAR 340-28-2120"
340-28-2110(7)	Add ", OAR 340-28-1700 through 340-28-1790, or a Notice of Approval, OAR 340-28-2270," after the words "obtain an ACDP"
340-28-2110(7)	Add "or the Notice of Approval" after the words "in the ACDP"

RULE NUMBER	CHANGE
340-28-2120	Replace "OAR 340-28-2120" with "this rule"
340-28-2120(1)(a)(A)	Add "If an earlier date is established, the Department will provide at least six (6) months for the owner or operator to prepare an application." after the first sentence
340-28-2120(1)(a)(A)	Add "or that is not a federal operating permit program source" before the words "as of the effective"
340-28-2120(1)(a)(B)	Add "or the construction/operation modification rule, OAR 340-28-2270;" before the words "or under the requirements"
340-28-2120(1)(a)(B)	Delete "or under the requirements of section 112(g) of the FCAA;"
340-28-2120(1)(a)(B)	Change "source" to "owner or operator"
340-28-2120(1)(a)(C)	Add "owner or operator" after the words "program source"
340-28-2120(1)(a)(C)	Change "340-28-2300" to "340-28-2320"
340-28-2120(1)(a)(C)	Replace "Notice of Construction and Approval of Plans, OAR 340-28-800 through 340-28-820" with "the construction/operation modification rule, OAR 340-28-2270"
340-28-2120(1)(a)(D)	Add "If more than 12 months is required to process a permit renewal application, the Department shall provide no less than six (6) months for the owner or operator to prepare an application." after the first sentence
340-28-2120(1)(b)(E)	Replace "EPA" with "the EPA"
340-28-2120(1)(b)(E)	Change "340-28-2300" to "340-28-2310"
340-28-2120(3)(b)	Change "source" to "owner or operator"
340-28-2120(3)(c)	Change "source" to "owner or operator"
340-28-2120(3)(c)(C)	Add "except as restricted by OAR 340-28-1050 and OAR 340-28-1060" to the end of the sentence
340-28-2120(3)(c)(D)	Delete "The applicant shall list all applicable requirements to which each insignificant activity identified in the permit application is subject and the methodology the applicant will use to ensure the insignificant activity's compliance with all applicable requirements."
340-28-2120(3)(c)(I)	Replace "(H)" with "(I)"
340-28-2120(3)(c)(D)	Re-number (D) to (E)
340-28-2120(3)(c)(E)	Re-number (E) to (F)
340-28-2120(3)(c)(F)	Re-number (F) to (G)
340-28-2120(3)(c)(G)	Re-number (G) to (H)

RULE NUMBER	CHANGE
340-28-2120(3)(c)(H)	Re-number (H) to (I)
340-28-2120(3)(c)(I)	Re-number (I) to (J)
340-28-2120(3)(c)(D)	Add "Additional information as determined to be necessary to establish any alternative emission limit in accordance with OAR 340-28-1030, if the permit applicant requests one."
340-28-2120(3)(f)(E)	Replace "Records of required monitoring information" with "Documentation of the applicability of the proposed Enhanced Monitoring Protocol, such as test data and engineering calculations"
340-28-2120(3)(f)(H)	Add "to protect human health or the environment or to determine compliance with applicable requirements" at the end of the sentence
340-28-2120(3)(g)	Change "340-28-2300" to "340-28-2320"
340-28-2120(3)(i)	Change ";" to "."
340-28-2120(3)(j)	Add "for permit renewals" to the end of the sentence
340-28-2120(3)(l)	Replace "request" with "requests"
340-28-2120(3)(m)	Delete "for all federal operating permit program sources"
340-28-2120(3)(r)	Change "source" to "owner or operator" in two instances
340-28-2120(3)(j)	Re-number (j) to (k)
340-28-2120(3)(k)	Re-number (k) to (l)
340-28-2120(3)(l)	Re-number (l) to (m)
340-28-2120(3)(m)	Re-number (m) to (n)
340-28-2120(3)(n)	Re-number (n) to (o)
340-28-2120(3)(o)	Re-number (o) to (p)
340-28-2120(3)(p)	Re-number (p) to (q)
340-28-2120(3)(q)	Re-number (q) to (r)
340-28-2120(3)(j)	Add "Additional information as determined to be necessary by the Department to define permit terms and conditions implementing off-permit changes for permit renewals."
340-28-2120(4)(a)	Change "a source" to "an owner or operator"
340-28-2120(4)(a)	Replace "Emissions Monitoring" with "emissions monitoring"
340-28-2120(4)(a)	Replace ", January, 1992," with "(January, 1992)" in two instances

RULE NUMBER	CHANGE
340-28-2120(4)(b)	Change "source" to "owner or operator" before the words "can demonstrate"
340-28-2120(4)(b)	Change "a source" to "an owner or operator" before the words "uses emission factors"
340-28-2120(4)(b)	Change "a source" to "an owner or operator" before the words "collects emissions"
340-28-2120(4)(b)	Change "source" to "owner or operator" before the words "shall use"
340-28-2120(4)(b)	Change "sources" to "owners or operators" before the words "to conduct"
340-28-2120(5)	Change "340-28-2300" to "340-28-2320" in two instances
340-28-2130	Change "340-28-2300" to "340-28-2320"
340-28-2130(3)(a)(F)	Add " unless otherwise specified in the permit" at the end of the sentence
340-28-2130(3)(b)(C)	Add " unless otherwise specified in the permit" at the end of the sentence
340-28-2130(3)(c)(A)	Add "Unless otherwise approved in writing by the Department," before the word "Six" and change "Six" to "six"
340-28-2130(3)(c)(A)	Add "unless otherwise approved in writing by the Department. " before the word "two"
340-28-2130(3)(c)(A)	Change "two" to "Two" and add "of the report shall be submitted" after the word "copies"
340-28-2130(3)(c)(A)(i)	Add ", unless otherwise approved in writing by the Department, and" after "30"
340-28-2130(3)(c)(A)(ii)	Replace "January 30" with "February 15, unless otherwise approved in writing by the Department, but shall be due no later than March 15," before the words "and shall consist"
340-28-2130(3)(c)(A)(ii)	Replace "specified in the permit," with "specified in the permit;"
340-28-2130(3)(c)(A)(ii)	Replace "statement if it is applicable" with "statement, if applicable"
340-28-2130(3)(c)(A)(ii)	Add "the annual certification that the risk management plan is being properly implemented, OAR 340-32-5400; " after "OAR 340-28-1440; "
340-28-2130(3)(c)(D)	Add ", unless otherwise specified in the permit"
340-28-2130(3)(c)(B)	Re-number (B) to (C)
340-28-2130(3)(c)(C)	Re-number (C) to (D)
340-28-2130(3)(c)(D)	Re-number (D) to (E)

RULE NUMBER	CHANGE
340-28-2130(3)(c)(B)	Add "Prompt reporting of deviations from permit requirements that do not cause excess emissions, including those attributable to upset conditions, as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. Deviations that cause excess emissions, as specified in OAR 340-28-1400 through 340-28-1460 shall be reported in accordance with OAR 340-28-1440."
340-28-2130(3)(d)	Add "are determined by the Department to be necessary to determine compliance with applicable requirements, or" before the words "are needed"
340-28-2130(4)(a)	ReNUMBER (a) to (b)
340-28-2130(4)(b)	ReNUMBER (b) to (c)
340-28-2130(4)(a)	Add "No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement."
340-28-2130(6)(c)	Delete ", " after the word "reopened"
340-28-2130(8)	Change "source" to "owner or operator"
340-28-2130(8)(a)	Change "source" to "owner or operator"
340-28-2130(8)(c)	Change "340-28-2300" to "340-28-2320"
340-28-2130(9)(f)	Change "340-28-2300" to "340-28-2320"
340-28-2130(10)(c)	Change "340-28-2300" to "340-28-2320"
340-28-2130(11)	Add ", OAR 340-28-2220(2)" at the end of the sentence
340-28-2130(12)	Add ", OAR 340-28-2220(3)" at the end of the sentence
340-28-2140	Replace "340-28-2200" with "340-28-2120"
340-28-2140	Delete "340-28-2300, and OAR 340-28-2140"
340-28-2140	Change "340-28-2290" to "340-28-2300"
340-28-2150	Replace "EPA" with "the EPA"
340-28-2160(4)	Replace "(m)" with "(n)" and add "(C)" at the end of the sentence
340-28-2160(4)	Replace "(m)" with "(n)" and add "(C)" after "OAR 340-28-2120(3)(n)"
340-28-2160(7)	Add " in order to protect human health or the environment" at the end of the sentence
340-28-2160(7)	ReNUMBER (7) to (8)

RULE NUMBER	CHANGE
340-28-2160(7)	Add "(7) Annual certification that the risk management plan is being properly implemented, OAR 340-32-5400."
340-28-2170(1)	Change "340-28-2280" to "340-28-2290"
340-28-2170(2)(a)	Add "the source is a " before the words "major source under"
340-28-2170(2)(b)	Add "applies to the source" after the words "OAR 340-32-5000,"
340-28-2170(2)(c)	Replace "not considered a problem source" with "the Department does not consider the source to be a problem source based on its complaint record and compliance history"
340-28-2170(4)(c)	Change "340-28-2280" to "340-28-2290"
340-28-2170(4)(c)	Replace "may" with "shall"
340-28-2170(4)(c)	Change "a source's" to "an owner's or operator's"
340-28-2170(4)(c)	Add "if the source meets the applicability criteria for the general permit" after the words "under a general permit"
340-28-2170(5)	Replace "comply with the permit reopening provisions of OAR 340-28-2270(1)" with " (a) immediately comply with the provisions of the applicable emissions standard; and (b) (A) within 12 months of standard promulgation, apply for an operating permit, pursuant to OAR 340-28-2120, if three (3) or more years are remaining on the general permit term; or (B) apply for an operating permit at least 12 months prior to permit expiration, pursuant to OAR 340-28-2120, if less than three (3) years remain on the general permit term"
340-28-2180(4)	Change "340-28-2300" to "340-28-2320"
340-28-2190(1)	Change "340-28-2300" to "340-28-2320"
340-28-2200(1)(a)(B)	Change "340-28-2280" to "340-28-2290"
340-28-2200(1)(a)(C)	Change "340-28-2300" to "340-28-2310"
340-28-2200(1)(a)(D)	Change "340-28-2300" to "340-28-2320"
340-28-2200(1)(a)(E)	Delete "if changes were made to the draft permit"
340-28-2200(1)(a)(E)	Change "340-28-2300(1)" to "340-28-2310(1)" and "340-28-2300(3)" to "340-28-2310(3)"
340-28-2200(1)(a)(E)	Add "if no changes were made to the draft permit" after the words "with the Department"
340-28-2200(1)(c)	Replace "20" with "60"

RULE NUMBER	CHANGE
340-28-2200(1)(d)	Add "The Department or Lane Regional Air Pollution Authority is the permitting authority for purposes of the 18 month requirement contained in 42 USC § 7661b(c) and this subsection." before the first sentence
340-28-2200(1)(d)	Change "340-28-2300" to "340-28-2320"
340-28-2200(1)(f)	Replace "EPA" with "the EPA"
340-28-2200(1)(g)	Replace "Notice of Construction and Approval of Plan in accordance with OAR 340-28-800 through 340-28-820" with "Notice of Approval in accordance with OAR 340-28-2270"
340-28-2200(2)(a)	Add "OAR 340-28-2220(3)," after "OAR 340-28-2200(2)(b),"
340-28-2200(2)(b)	Change "340-28-2300" to "340-28-2320"
340-28-2210(1)	Replace "EPA" with "the EPA"
340-28-2220	Change "sources" to "owners or operators" in two instances
340-28-2220(1)	Change "Sources" to "Owners or operators"
340-28-2220(1)(a)	Add "conditions, including" after the word "different" and "," after "parameters"
340-28-2220(1)(c)	Change "Sources" to "Owners or operators"
340-28-2220(1)(d)	Change "Sources" to "Owners or operators"
340-28-2220(1)(d)	Add "changes of" after the words "submit the record of"
340-28-2220(2)(a)(F)	Delete "insignificant changes of", add "subject to an applicable requirement, but" before the words "not otherwise", and delete "(50)"
340-28-2220(2)(b)	Change "Sources" to "Owners or operators"
340-28-2220(2)(b)	Add "under OAR 340-28-110" after the word "insignificant"
340-28-2220(2)(b)(A)	Delete "brief " before the word "description"
340-28-2220(2)(b)(D)	Renumber (D) to (E) and add ";" at the end
340-28-2220(2)(b)(D)	Delete "and" before (E)
340-28-2220(2)(b)(D)	Add "pollutants emitted;"
340-28-2220(2)(b)(F)	Add "(F) verification that the change is not addressed or prohibited by the permit;"
340-28-2220(2)(b)(G)	Add "(G) verification that the change is not a Title I modification, such as an explanation that the change does not meet any of the Title I modification criteria;"

RULE NUMBER	CHANGE
340-28-2220(2)(b)(H)	Add "(H) verification that the change is not subject to any requirements under Title IV of the FCAA; and"
340-28-2220(2)(b)(I)	Add "(I) verification that the change does not violate any existing permit term or condition"
340-28-2220(2)(c)	Delete "insignificant" after the words "that result in" and add ", and the emissions resulting from those off-permit changes" after the words "under the permit"
340-28-2220(2)(e)	Add "Terms and conditions that result from" before the word "Off-permit"
340-28-2220(2)(e)	Replace "Off-permit" with "off-permit"
340-28-2220(2)(e)	Add ", if applicable" at the end of the sentence
340-28-2220(2)(f)	Delete "of OAR 340-28-2190" after the words "permit shield"
340-28-2220(3)(b)	Change "Sources" to "Owners or operators"
340-28-2220(3)(b)(A)	Delete "brief " before the word "description"
340-28-2220(3)(b)(F)	Add ", such as an explanation that the permit term or condition that is being contravened is not based on an applicable requirement" after "applicable requirements"
340-28-2220(3)(b)(G)	Add ", such as calculations of emissions resulting from the change in relation to the PSEL" after the word "PSELs"
340-28-2220(3)(b)(H)	Add ", such as an explanation that the change does not meet any of the Title I modification criteria" after the word "modification"
340-28-2220(3)(c)	Add "section" before the words "502(b)(10) changes"
340-28-2220(3)(c)	Change "sources" to "source's"
340-28-2220(3)(d)	Add "Terms and conditions that result from" before the word "Section"
340-28-2220(3)(d)	Replace "Section" with "section"
340-28-2220(3)(d)	Add ", if applicable" at the end of the sentence
340-28-2230(1)(f)	Delete "one-time" and add ", except when required by a compliance schedule" after the word "circumstances"
340-28-2230(1)(h)	Delete "OAR 340-28-1700 through 340-28-1790 or"
340-28-2230(1)(h)	Add "or OAR 340-28-2270" after the words "through 340-28-2000"
340-28-2230(1)(h)	Change "340-28-2280" to "340-28-2290" and "340-28-2300" to "340-28-2310"

RULE NUMBER	CHANGE
340-28-2230(1)(j)	Delete "Changes state enforceable applicable requirements to federally enforceable applicable requirements when the EPA approves Oregon's State Implementation Plan;"
340-28-2230(1)(k)	ReNUMBER (k) to (j)
340-28-2230(3)(a)	Change "source" to "owner or operator"
340-28-2230(3)(b)	Replace "OAR 340-28-2230" with "this rule"
340-28-2230(3)(d)	Delete " " before "permit addendum"
340-28-2230(4)	Change "340-28-2300" to "340-28-2320"
340-28-2250(1)(a)(D)(ii)	Delete "regulations promulgated under section 112(i)(5) of the FCAA" and add "OAR 340-32-300 through 340-32-380" after the word "to"
340-28-2250(1)(a)(G)	Delete "the Department" and add "OAR 340-28-2260" after the word "by"
340-28-2250(1)(b)	Replace "EPA" with "the EPA"
340-28-2250(2)(a)	Replace "forms or electronic" with "forms and electronic"
340-28-2250(2)(a)(D)	Change "340-28-2300" to "340-28-2310"
340-28-2250(2)(b)	Change "340-28-2300" to "340-28-2310" in two instances
340-28-2250(2)(c)	Replace "EPA" with "the EPA" in three instances
340-28-2250(2)(c)	Change "340-28-2300" to "340-28-2310"
340-28-2250(2)(c)(D)	Change "340-28-2300" to "340-28-2310"
340-28-2250(2)(d)	Replace "45 days" with "immediately"
340-28-2260(1)(a)	Add "OAR 340-28-2230(1)(i); or OAR 340-28-2270" after "340-28-2000"
340-28-2260(1)(d)	Add "or OAR 340-28-2270" after the words "through 340-28-2000"
340-28-2260(1)(e)	Delete "(e) modifications at sources which are major hazardous air pollutant sources that cause increases of emissions of HAP greater than de minimis;"
340-28-2260(1)(f)	Change "340-28-2300" to "340-28-2320"
340-28-2260(1)(f)	ReNUMBER (f) to (e)
340-28-2260(2)	Change "340-28-2300" to "340-28-2320"
340-28-2260(2)	Replace "EPA" with "the EPA"
340-28-2260(3)	Delete "(55)"
340-28-2260(4)	Add "at sources which are major hazardous air pollutant sources" after the word "Modifications"

RULE NUMBER	CHANGE
340-28-2260(4)	Replace "340-28-2100 through 340-28-2300" with "340-28-2270"
340-28-2270(1)(a)(A)	Replace "340-28-2120(1)(a) and (b)" with "OAR 340-28-2210"
340-28-2270(1)(a)(C)	Replace "EPA" with "the EPA"
340-28-2270(1)(a)(D)	Replace "EPA" with "the EPA"
340-28-2270(1)(c)	Change "340-28-2270" to "340-28-2280"
340-28-2270(2)	Replace "EPA" with "the EPA"
340-28-2270(2)(a)	Replace "EPA" with "the EPA" in two instances
340-28-2270(2)(b)	Replace "EPA" with "the EPA" in three instances
340-28-2270(2)(d)	Replace "EPA" with "the EPA"
340-28-2280	Add "construction/operation modifications when there is an increase of emissions above the PSEL," after the words "significant modifications,"
340-28-2280(2)(f)	Replace "Class 1" with "Class I"
340-28-2280(2)(k)	Change "340-28-2300" to "340-28-2320"
340-28-2280(3)	Change "340-28-2300" to "340-28-2310"
340-28-2280(4)(b)	Change "14" to "30"
340-28-2280(4)(c)	Change "340-28-2280" to "340-28-2290"
340-28-2280(6)	Change "340-28-2280" to "340-28-2290"
340-28-2280(7)	Replace "340-28-2280" with "this rule"
340-28-2290	Delete "If the applicant is dissatisfied with the conditions or limitations of any permit issued by the Department, the applicant may request a hearing before the Commission or its authorized representative. The hearing on a federal operating permit issued by LRAPA shall be before LRAPA's Board of Directors. The applicant shall specify which permit conditions are being challenged and the reasons for the challenge. Only those parts of the permit being challenged shall be reexamined. All other permit requirements shall continue to be valid. A request for hearing shall be made in writing to the Director within 20 days of the date of mailing of the notification of issuance of the permit. Any hearing held shall be conducted pursuant to the applicable provisions of ORS Chapter 183."

RULE NUMBER	CHANGE
340-28-2290(1)	<p>Add "(1) A final permit issued by the Department shall become effective upon the date it was signed by the Air Quality Division Administrator or his or her designated representative, unless the applicant requests a hearing before the Commission or its authorized representative. A final permit issued by LRAPA shall become effective upon the date it was signed by the LRAPA Director or his or her designated representative, unless the applicant requests a hearing before LRAPA's Board of Directors."</p>
340-28-2290(2)	<p>Add "(2) The request for hearing must be in writing within 20 days of the date of mailing of the notification of issuance of the permit. The applicant shall specify which permit conditions are being challenged and why, including each alleged factual or legal objection."</p>
3340-28-2290(3)	<p>Add "(3)(a) Permit conditions that are not contested, including any conditions that are severable from those contested, shall be in effect upon the date the permit was signed by the Air Quality Division Administrator or the LRAPA Director.</p> <p>(b) Upon such request for review, the effect of the contested conditions, as well as any conditions that are not severable from those contested, shall be stayed only upon a showing that, during the pendency of the appeal, compliance with the contested conditions would require substantial expenditures or losses that would not be incurred if the applicant prevails on the merits of the review; and also that there exists a reasonable likelihood of success on the merits. The Commission may require that the contested conditions not be stayed if it finds that substantial endangerment of public health or welfare would result from the staying of the conditions. The Commission must deny or grant the stay within 30 days."</p>

RULE NUMBER	CHANGE
340-28-2290(4)	Add "(4) If an applicant requests a hearing pursuant to this section, then any adversely affected or aggrieved person, as those terms have been construed under ORS Chapter 183, may petition the Commission to be allowed to intervene in the contested case hearing to challenge any permit condition. This petition must be in writing and must be filed with the Commission at least 21 days before the date set for hearing. It shall specify which permit conditions are being challenged and the reasons for those challenges, including each alleged factual or legal objection."
340-28-2290(5)	Add "(5) Any hearing held under this section shall be conducted pursuant to the applicable provisions of ORS Chapter 183 and OAR Chapter 340 Division 11."
340-28-2300	Replace "EPA" with "the EPA"
340-28-2300(1)(a)	Replace "EPA" with "the EPA"
340-28-2300(1)(b)	Change "340-28-2300" to "340-28-2310"
340-28-2300(1)(b)	Replace "EPA" with "the EPA"
340-28-2300(1)(c)	Change "340-28-2300" to "340-28-2320"
340-28-2300(2)(a)	Change "340-28-2280" to "340-28-2290"
340-28-2300(2)(b)	Change "340-28-2300" to "340-28-2320"
340-28-2300(3)(a)	Change "340-28-2300" to "340-28-2310"
340-28-2300(3)(a)	Replace "EPA" with "the EPA"
340-28-2300(3)(b)	Change "340-28-2300" to "340-28-2310"
340-28-2300(4)(a)	Change "340-28-2300" to "340-28-2310" and "340-28-2280" to "340-28-2290"
340-28-2300(4)(b)	Replace "EPA" with "the EPA"
340-28-2300(4)(c)	Change "340-28-2300" to "340-28-2310" and "340-28-2270" to "340-28-2280"
340-28-2300(4)(c)	Replace "EPA" with "the EPA"
340-28-2300(5)	Replace "EPA" with "the EPA"
340-28-2300(5)	Replace "340-28-2300" with "this rule"
340-28-2270	Renumber "340-28-2270" to "340-28-2280"
340-28-2280	Renumber "340-28-2280" to "340-28-2290"
340-28-2290	Renumber "340-28-2290" to "340-28-2300"
340-28-2300	Renumber "340-28-2300" to "340-28-2310"

RULE NUMBER	CHANGE
340-28-2270	Add "Construction/Operation Modifications 340-28-2270"
340-28-2270(1)	<p>Add "(1) Requirement.</p> <p>(a) No owner or operator shall construct, fabricate, erect, install, establish, develop or operate a new source of regulated air pollutants of any class listed in OAR 340-28-2270(2) without first notifying the Department in writing and obtaining approval.</p> <p>(b) No owner or operator shall modify or replace any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) covered by a permit under OAR 340-28-2100 through 340-28-2320 without first notifying the Department in writing and obtaining approval if:</p> <p>(A) Any emissions unit is changed or added to that would increase that emissions unit's potential to emit;</p> <p>(B) Any alternative operating scenario is changed or added to that would affect the method of the compliance certification;</p> <p>(C) The performance of any pollution control equipment used to comply with a Department requirement is degraded causing an increase of emissions (excluding routine maintenance);</p> <p>(D) The performance of any monitoring equipment required by the Department is changed (excluding routine maintenance); or</p> <p>(E) The source becomes subject to a new applicable requirement."</p>
340-28-2270(2)	<p>Add "(2) Scope. This regulation shall apply to the following classes of sources of regulated air pollutants:</p> <p>(a) Any emissions unit having emissions to the atmosphere;</p> <p>(b) Any air pollution control equipment used to comply with a Department requirement;</p> <p>(c) Any monitoring equipment required by the Department requirement."</p>
340-28-2270(3)(a)	<p>Add "(3) Procedure.</p> <p>(a) Notice. Any owner or operator required to obtain approval for a new, modified, or replaced source of regulated air pollutants of any class listed in OAR 340-28-2270(2) shall notify the Department in writing on a form supplied by the Department."</p>

RULE NUMBER	CHANGE
340-28-2270(3)(b)	<p>Add "(b) Submission of Plans and Specifications. The Department shall require the submission of plans and specifications for any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) being constructed or modified and its relationship to the production process. The following information shall be required for a complete application:</p> <ul style="list-style-type: none"> (A) Name, address, and nature of business; (B) Name of local person responsible for compliance with these rules; (C) Name of person authorized to receive requests for data and information; (D) A description of the constructed or modified source; (E) A description of the production processes and a related flow chart for the constructed or modified source; (F) A plot plan showing the location and height of the constructed or modified air contaminant source. The plot plan shall also indicate the nearest residential or commercial property; (G) Type and quantity of fuels used; (H) The change in the amount, nature and duration of regulated air pollutant emissions; (I) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions; (J) Amount and method of refuse disposal; (K) Land Use Compatibility Statement signed by a local (city or county) planner either approving or disapproving construction or modification to the source if required by the local planning agency; (L) Corrections and revisions to the plans and specifications to insure compliance with applicable rules, orders and statutes; and (M) Sufficient information for the Department to determine applicable emission limitations and requirements for hazardous air pollutant sources."

RULE NUMBER	CHANGE
340-28-2270(3)(c)(A)	Add "(c) Notice of Approval: (A) For construction or modification of any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) that does not increase emissions above the PSEL: (i) The Department shall, upon determining that the proposed construction or modification is, in the opinion of the Department, in accordance with the provisions of applicable rules, order, and statutes, notify the owner or operator that construction may proceed within 60 days of receipt of the required information;"
340-28-2270(3)(c)(A)(ii)	Add "(ii) A Notice of Approval to proceed with construction or modification shall allow the owner or operator to construct or modify the source and operate it in accordance with provisions under OAR 340-28-2220, 340-28-2230 or 340-28-2240, whichever is applicable. "
340-28-2270(3)(c)(A)(iii)	Add "(iii) A Notice of Approval to proceed with construction or modification shall not relieve the owner or operator of the obligation of complying with applicable emission standards and orders."
340-28-2270(3)(c)(B)(i)	Add "(B) For construction or modification of any source of regulated air pollutants of any class listed in OAR 340-28-2270(2) that increases emissions above the PSEL: (i) The Department shall upon determining that the proposed construction or modification is in the opinion of the Department in accordance with the provisions of applicable rules, order, and statutes, issue public notice as to the intent to issue an approval for construction or modification within 180 days of receipt of the required information;"

RULE NUMBER	CHANGE
340-28- 2270(3)(c)(B)(ii)	Add "(ii) The public notice shall allow at least thirty (30) days for written comment from the public, and from interested State and Federal agencies, prior to issuance of the approval. Public notice shall include the name and quantities of new or increased emissions for which permit limits are proposed, or new or increased emissions which exceed significant emission rates established by the Department."
340-28- 2270(3)(c)(B)(iii)	Add "(iii) In addition to the information required under OAR 340-11-007, public notices for approval of construction or modification shall contain a determination of: (I) Whether the proposed permitted emission would have a significant impact on a Class I airshed; (II) Whether each proposed permitted emission is a criteria pollutant and whether the area in which the source is located is designated as attainment or nonattainment for that pollutant; and (III) For each major source within an attainment area for which dispersion modeling has been performed an indication of what impact each proposed permitted emission would have on the Prevention of Significant Deterioration Program within that attainment area. "
340-28- 2270(3)(c)(B)(iv)	Add "(iv) The owner or operator may request that the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310 be used instead of the notice procedures under paragraph (ii) and (iii) this rule to allow for subsequent incorporation of the Notice of Approval as an administrative amendment. The public notice shall state that the external review procedures are being used, if the applicant requests them."

RULE NUMBER	CHANGE
340-28- 2270(3)(c)(B)(v)	Add "(v) If, within 30 days after commencement of the public notice period, the Department receives written requests from ten (10) persons, or from an organization or organizations representing at least ten persons, for a public hearing to allow interested persons to appear and submit oral or written comments on the proposed provisions, the Department shall provide such a hearing before taking final action on the application, at a reasonable place and time and on reasonable notice. Requests for public hearing shall clearly identify the air quality concerns in the draft permit."
340-28- 2270(3)(c)(B)(vi)	Add "(vi) The Department shall give notice of any public hearing at least 30 days in advance of the hearing. Notice of such a hearing may be given, in the Department's discretion, either in the public notice under 340-28-2290(1) or in such other manner as is reasonably calculated to inform interested persons."
340-28- 2270(3)(c)(B)(vii)	Add "(vii) The Department shall, upon determining that the proposed construction or modification is, in the opinion of the Department, in accordance with the provisions of applicable rules, order, and statutes, notify the owner or operator that construction may proceed after the public notice period."
340-28- 2270(3)(c)(B)(viii)	Add "(viii) A Notice of Approval to proceed with construction or modification shall allow the owner or operator to construct or modify the source and operate it in accordance with provisions under OAR 340-28-2220, 340-28-2230, or 340-28-2240, whichever is applicable."
340-28- 2270(3)(c)(B)(ix)	Add "(ix) A Notice of Approval to proceed with construction or modification shall not relieve the owner or operator of the obligation of complying with applicable emission standards and orders."

RULE NUMBER	CHANGE
340-28-2270(3)(d)	<p>Add "(d) Order Prohibiting Construction. If within the 60 day or 180 day review period, whichever is applicable, the Director determines that the proposed construction or modification is not in accordance with applicable statutes, rules, regulations and orders, the Director shall issue an order prohibiting the construction or modification of the air contamination source. Said order is to be forwarded to the owner by certified mail."</p>
340-28-2270(3)(e)	<p>Add "(e) Hearing. Pursuant to law, an owner or operator against whom an order prohibiting construction is directed may within 20 days from the date of mailing of the order, demand a hearing. The demand shall be in writing, state the grounds for hearing, and be mailed to the Director of the Department. The hearing shall be conducted pursuant to the applicable provisions of ORS Chapter 183."</p>
340-28-2270(3)(f)	<p>Add "(f) Notice of Completion. Within thirty (30) days after any owner or operator has constructed or modified an air contamination source as defined under OAR 340-28-2270(2), that owner or operator shall so report in writing on a form furnished by the Department, stating the date of completion of construction or modification and the date the source was or will be put in operation."</p>
340-28-2270(3)(g)(A)	<p>Add "(g) Incorporation into a Federal Operating Permit. (A) Where a federal operating permit would allow incorporation of such construction or modification as an off-permit change [OAR 340-28-2220(2)] or a section 502(b)(10) change [OAR 340-28-2220(3)]: (i) The owner or operator of the air contamination source shall submit to the Department the applicable notice, and (ii) The Department shall incorporate the construction or modification at permit renewal, if applicable."</p>

RULE NUMBER	CHANGE
340-28-2270(3)(g)(B)	Add " (B) Where a federal operating permit would allow incorporation of such construction or modification as an administrative amendment [OAR 340-28-2230], the owner or operator of the source may: (i) submit the permit application information required under OAR 340-28-2120(3) with the information required under OAR 340-28-2270(3)(b) upon becoming aware of the need for an administrative amendment; and (ii) request that the external review procedures required under OAR 340-28-2290 and OAR 340-28-2310 be used instead of the notice procedures under OAR 340-28-2270(3)(c)(B)(ii) and (iii) to allow for subsequent incorporation of the construction permit as an administrative amendment."
340-28-2270(3)(g)(C)	Add " (C) Where a federal operating permit would require incorporation of such construction or modification as a minor permit modification [OAR 340-28-2250] or a significant permit modification [OAR 340-28-2260], the owner or operator of the source shall submit the permit application information required under OAR 340-28-2120(3) within one year of initial startup of the construction or modification."
340-28-2320	Add "Enforcement 340-28-2320"
340-28-2320(1)	Add "(1) Whenever it appears to the Department that any activity in violation of a permit that results in air pollution or air contamination is presenting an imminent and substantial endangerment to the public health, the Department may enter a cease and desist order pursuant to ORS 468.115 or seek injunctive relief pursuant to ORS 468.100."

RULE NUMBER	CHANGE
340-28-2320(2)	<p>Add "(2)(a) Whenever the Department has good cause to believe that any person is engaged in or about to engage in acts or practices that constitute a violation of any part of the rules contained in this Division or any provision of a permit issued pursuant to these rules, the Department may seek injunctive relief in court to enforce compliance thereto or to restrain further violations.</p> <p>(b) The proceedings authorized by subsection (a) of this section may be instituted without the necessity of prior agency revocation of the permit or during a permit revocation proceeding if one has been commenced."</p>
340-28-2320(3)	<p>Add "(3) In addition to the enforcement authorities contained in sections 1 and 2 and any other penalty provided by law, any person who violates any of the following shall incur a civil penalty as authorized under ORS 468.140 and established pursuant to Oregon Administrative Rules Chapter 340, Division 12:</p> <ul style="list-style-type: none"> (a) Any applicable requirement; (b) Any permit condition; (c) Any fee or filing requirements; (d) Any duty to allow or carry out inspection, entry or monitoring activities; or (e) Any rules or orders issued by the Department."
340-28-2400(3)	Replace "EPA" with "the EPA"
340-28-2410	Delete strikeout of "Commission" and delete redline of "EQC"
340-28-2430(1)(a)	Delete strikeout of "Hazardous Air Pollutant" and delete redline of "HAP"
340-28-2450(3)(a)	Replace "340-28-2550" with "340-28-2490"

CHANGES TO ORIGINAL RULEMAKING PROPOSAL
(DIVISION 32)
MADE IN RESPONSE TO PUBLIC COMMENT

RULE CITATION	CHANGE TO RULE
340-32-100	Added "It shall be the policy of the Commission that no person may cause, allow, or permit emissions into the ambient air of any hazardous substance in such quantity, concentration, or duration determined by the Commission to be injurious to public health or the environment."
340-32-120(17)	Added "...as described in 40 CFR Parts 60, 61, and 63 as of December 29, 1992." Deleted "... as incorporated in the Department's Source Sampling Manual, Volumes I and II, dated January 1992."
340-32-120(25)	Added "The EPA may adopt any lesser quantity, or in the case of radionuclides different criteria, for a major source as established by the EPA on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors."
340-32-120(26)	Added "Manufacture" as used in OAR 340-32-240 means to produce, prepare, compound, or import a substance. This includes the coincidental production of a substance as a byproduct or impurity."
340-32-120(33)	Added "Process" as used in OAR 340-32-240 means the preparation of a substance, including the intentional incorporation of a substance into a product after its manufacture, for distribution in commerce."
340-32-120(35)	Added "Regulated Air Pollutant" as used in this Division means:
340-32-120(35)(a)	Added "Any pollutant listed under OAR 340-32-130 or OAR 340-32-5400; or"
340-32-120(35)(b)	Added "Any pollutant that is subject to a standard promulgated pursuant to section 129 of the Act."
340-32-120(37)	Added "Section 111" means that section of the FCAA that includes standards of performance for new stationary sources."
340-32-120(38)	Added "Section 112(b)" means that subsection of the FCAA that includes the list of hazardous air pollutants to be regulated."
340-32-120(39)	Added "Section 112(d)" means that subsection of the FCAA that directs the EPA to establish emission standards for sources of hazardous air pollutants. This section also defines the criteria to be used by EPA when establishing the emission standards."
340-32-120(40)	Added "Section 112(e)" means that subsection of the FCAA that directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants."

RULE CITATION	CHANGE TO RULE
340-32-120(41)	Added "Section 112(n)" means that subsection of the FCAA that includes requirements for the EPA to conduct several studies prior to developing emission standards for specified categories of hazardous air pollutant emission sources.
340-32-120(42)	Added "Section 112(r)" means that subsection of the FCAA that includes requirements for the EPA promulgate regulations for the prevention, detection and correction of accidental releases.
340-32-120(43)	Added "Section 129" means that subsection of the FCAA that requires EPA to promulgate regulations for solid waste combustion.
340-32-120(44)	Added "Solid Waste Incineration Unit" as used in this Division shall have the same meaning as given in section 129(g) of the FCAA. "
340-32-120(45)	Deleted "340-32-120(44)" Added "340-32-120(45)"
340-32-120(45)(a)	Added "as used in OAR 340-32-100 through 5000 means any building, structure, facility, or installation that emits or may emit regulated air pollutant."
340-32-120(45)(b)	Added "as used in OAR 340-32-5400 means any buildings, structures, equipment, installations, or substance emitting stationary activities (1) that belong to the same industrial group, (2) that are located on one or more contiguous properties, (3) that are under the control of the same person (or persons under common control), and (4) from which an accidental release may occur."
340-32-120(46)	Added "Stationary Sources" Added "Use" as used in OAR 340-32-240 means the consumption of a chemical that does not fall under the definitions of "manufacture" or "process". This may include the use of a chemical as a manufacturing aid, cleaning or degreasing aid, or waste treatment aid."
340-32-140(3)(a)	Added "it finds there is a scientifically defensible need to add substances not on the EPA list to protect the public health of environment;"
340-32-140(3)(b)	Added "a chemical is added to the list by the EPA;"
340-32-140(3)(c)	Added "a substance is deleted from the list by the EPA and the Commission finds that the substance can be deleted without causing harm to public health or the environment; or"
340-32-140(3)(d)	Added "a substance has previously been added to the list by the Commission but not by the EPA, and the Commission finds that the substance can be deleted without causing harm to public health or the environment."
340-32-200	Deleted "No person may cause, allow, or permit emissions into the ambient air of any hazardous substance in such quantity, concentration, or duration determined by the Commission to be injurious to public health or the environment."

RULE CITATION	CHANGE TO RULE
340-32-150 through 340-32-200	Added "Reserved"
340-32-210(2)	Added "comply with the applicable permitting requirements under OAR 340-32-230 and OAR 340-32-240,." Deleted "notify the Department and shall"
340-32-210(2)(b)	Added "any new major source of HAP that proposes to construct;"
340-32-210(2)(c)	Added "any existing major source of HAP that proposes a modification;"
340-32-210(2)(d)	Added "any existing source currently complying with an air contaminant discharge permit that becomes a major source of HAP; "
340-32-210(2)(f)	Added "any area source of HAP for which a standard has been adopted."
340-32-220(1)	Deleted "major" Added "HAP source"
340-32-220(2)	Added "Notwithstanding the provisions of OAR Chapter 340, Divisions 28 and 32, no stationary source shall be required to apply for, or operate pursuant to, a federal operating permit issued under OAR 340-28-2100 through 340-28-2320 solely because such source is subject to the provisions of OAR 340-32-5400, Accidental Release Prevention."
Permit to Construct or Modify	Added "or Modify"

RULE CITATION	CHANGE TO RULE
340-32-230(1)	<p>(1) After the effective date of the program no owner or operator shall:</p> <ul style="list-style-type: none"> (a) construct a new major HAP source that will be subject to the federal operating permit program without obtaining an Air Contaminant Discharge Permit (ACDP) pursuant to OAR 340-28-1700 through OAR 340-28-1790 prior to construction; (b) modify any existing major source of HAP operating under a federal operating permit without obtaining a preconstruction notice of approval as described in OAR 340-28-2270 prior to modifying; (c) modify any existing source operating under an ACDP which will become a major HAP source after modifying, without obtaining a permit modification pursuant to OAR 340-28-1700 through OAR 340-28-1790 prior to modifying; (d) modify any existing source not currently operating under any permit which will become a major HAP source after modifying, without obtaining an ACDP pursuant to OAR 340-28-1700 through OAR 340-28-1790 prior to modifying; (e) modify any existing source operating under an ACDP as a synthetic minor pursuant to OAR 340-28-1740 which will become a major HAP source after modifying, without: <ul style="list-style-type: none"> (A) obtaining a federal operating permit pursuant to OAR 340-28-2100 through OAR 340-28-2320 for those sources proposing to change an enforceable condition in the permit prior to operating as a major source; or (B) obtaining a modified ACDP pursuant to OAR 340-28-1700 through OAR 340-28-1790 for those sources proposing to construct or modify any emissions unit prior to construction or modification.

RULE CITATION	CHANGE TO RULE
340-32-240(1)	<p>(1) After the effective date of the program no owner or operator shall operate a new, existing, or modified major source of HAP emissions without applying for an operating permit as described below.</p> <p>(a) The following types of HAP sources:</p> <ul style="list-style-type: none"> (A) new major sources as described in OAR 340-32-230(a); (B) existing sources operating under an ACDP as described in OAR 340-32-230(c); (C) existing sources previously unpermitted as described in OAR 340-32-230(d); (D) existing synthetic minor sources operating under an ACDP as described in OAR 340-32-230(e)(B); <p>shall, within 12 months after initial startup of the construction or modification, comply with the federal operating permit application procedures of OAR 340-28-2100 through OAR 340-28-2320.</p> <p>(b) Any existing major HAP sources as described under OAR 340-32-230(b) shall:</p> <ul style="list-style-type: none"> (A) immediately upon receiving its preconstruction notice of approval, comply with the operating permit procedures described under OAR 340-28-2230 Administrative Amendments, if the source has complied with the enhanced provisions of OAR 340-28-2290 and OAR 340-28-2310; (B) within 12 months of commencing operation comply with the permit application procedures under OAR 340-28-2250 when the modification qualifies as a minor modification or OAR 340-28-2260 when the modification qualifies as a significant modification; or (C) at the time of permit renewal comply with the permit application procedures under OAR 340-28-2220(2) when the modification qualifies as an off permit change or OAR 340-28-2220(3) when the modification qualifies as a "502(b)(10)" change. <p>(c) Any synthetic minor source as described in OAR 340-32-230(e)(A) shall, prior to commencing operation, apply for and obtain the required federal operating permit according to the procedures of OAR 340-28-2100 through OAR 340-28-2320.</p>

RULE CITATION	CHANGE TO RULE
340-32-240(2)(B)	<p>(B) The owner or operator shall provide estimates of the usage of these additional chemicals based on readily available information. The owner or operator is not required to estimate the "manufacture" of any chemical from combustion or manufacturing processes for which there are no verifiable emission factors, mass balance calculation methods, or for which no EPA approved testing, sampling, or monitoring method exists. The use of chemicals in the following categories are exempt from quantification:</p> <ul style="list-style-type: none"> (i) aggregate insignificant emissions as defined under OAR 340-28-110(5), categorically insignificant activities as defined under OAR 340-28-110(15), insignificant mixture usage as defined under OAR 340-28-110(50); (ii) products and fuels for maintaining motor vehicles used onsite; or (iii) chemicals used in a manufactured item that are not released under normal circumstances of processing at the facility;
340-32-250(1)(a)	Added "the source is a"
340-32-250(1)(b)	Added "applies to the source"
340-32-250(1)(c)	Added "The Department does not consider the source a problem source based on the source's complaint record and compliance history."
340-32-250(2)	<p>(2) When an emissions limitation applicable to a source with a general permit is promulgated by the EPA pursuant to 112(d), or adopted by the state pursuant to OAR 340-32-500 through OAR 340-32-2500, the source shall:</p> <ul style="list-style-type: none"> (a) immediately comply with the provisions of the applicable emissions standard; and (b) apply for an operating permit pursuant to OAR 340-28-2120 within 12 months of promulgation of an applicable emissions standard if 3 or more years are remaining on the general permit term, or at least 12 months prior to permit expiration if less than 3 years remain on the general permit term.
340-32-260(2)	Added "The PSEL established pursuant to this provision may only be used"
340-32-320(4)	Added "...dated December 29, 1992..."

RULE CITATION	CHANGE TO RULE
340-32-500(1)	Deleted "MACT" Added "emissions pursuant to section 112(d), section 112(n), or section 129 of the FCAA the requirements and emission standard for new sources when promulgated by EPA." Deleted "applicable new source MACT requirements."
340-32-500(2)(a)(D)	Added "or"
340-32-500(2)(d)	Deleted "Except that:"
340-32-500(2)(d)(A)	Added "The Department shall not establish a case-by-case State MACT for new solid waste incineration units where an emissions standard will be established by the EPA pursuant to Section 111 of the FCAA. These sources are subject to applicable emissions standards under OAR Chapter 340, Division 25."
340-32-500(2)(d)(B)	Added "The Department shall not establish a case-by-case State MACT for new major HAP sources where an emissions standard or alternative control strategy will be established by the EPA pursuant to Section 112(n) of the FCAA."
340-32-500(3)	Deleted "receiving an operating permit" Added "commencing operation"
340-32-500(4)	<p>Added "(b) If the actual emissions of any listed HAP exceeds the de minimis quantity for that HAP then the owner or operator of the source shall notify the Department in the Permit to Construct application which of the following options the owner or operator chooses for addressing residual emissions:</p> <ul style="list-style-type: none"> (A) propose additional emissions reduction measures to reduce residual HAP emissions that, if approved by the Department, shall be included as permit terms or conditions; (B) provide an air quality analysis to the Department showing impacts from residual emissions; or (C) propose no additional emissions reduction measures and will provide additional information when requested, for the Department to evaluate the source's residual emissions. <p>(c) The Department may request additional information from the owner or operator. The information requested shall be necessary for determining additional control measures or for conducting an air quality analysis. The Department shall determine if residual emissions have been adequately addressed to protect public health and the environment and may propose rule making to require additional emission reduction measures on a case-by-case basis."</p>

RULE CITATION	CHANGE TO RULE
340-32-2500(1)	Added "emission standards" Deleted "MACT requirements" Added "pursuant to section 112(d), section 112(n), or section 129 of the FCAA"
340-32-2500(2)(a)	Changed "6" to "18" months.
340-32-2500(2)(a)(B)	Added "for sources in a category or subcategory with 30 or more sources nationwide, or at least the average emissions limitation achieved by the best performing five sources in a category or subcategory with fewer than 30 sources nationwide,"
340-32-2500(2)(d)	Added "The Department shall not establish a case-by-case State MACT:"
340-32-2500(2)(d)(A)	Added "for existing solid waste incineration units where an emissions standard will be established for these units by the EPA pursuant to Section 111 of the FCAA. These sources are subject to applicable emissions standards under OAR Chapter 340, Division 25."
340-32-2500(2)(d)(B)	Added "for existing major HAP sources where an emissions standard or alternative control strategy will be established by the EPA pursuant to Section 112(n) of the FCAA."
340-32-2500(3)(a)(A)	Added "the time limit frame established in the applicable Federal MACT standard, but in no case later than"
340-32-4500(2)	Deleted "the owner or operator of the source shall achieve the applicable Emissions Limitation for New Major Sources (OAR 340-32-500) or the applicable Emissions Limitation for Existing Major Sources (OAR 340-32-2500) as determined ny the Department" Added "the Department shall determine on a case-by-case basis whether the Emissions Limitation for New Major Sources (OAR 340-32-500(2)) or the Emissions Limitation for Existing Major Sources (OAR 340-32-2500(2)) applies to the modified emissions unit"

RULE CITATION	CHANGE TO RULE
340-32-4500(3)	<p>Added "(b) If the actual emissions of any listed HAP exceeds the de minimis quantity for that HAP then the owner or operator of the source shall notify the Department in the Permit to Construct application which of the following options the owner or operator chooses for addressing residual emissions:</p> <ul style="list-style-type: none"> (A) propose additional emissions reduction measures to reduce residual HAP emissions that, if approved by the Department, shall be included as permit terms or conditions; (B) provide an air quality analysis to the Department showing impacts from residual emissions; or (C) propose no additional emissions reduction measures and will provide additional information when requested, for the Department to evaluate the source's residual emissions. <p>(c) The Department may request additional information from the owner or operator. The information requested shall be necessary for determining additional control measures or for conducting an air quality analysis. The Department shall determine if residual emissions have been adequately addressed to protect public health and the environment and may propose rule making to require additional emission reduction measures on a case-by-case basis."</p>
340-32-5000(1)	<p>Added "Applicability After the effective date of the program the requirements of sections (2) and (3) of this rule shall apply to:"</p>
340-32-5000(1)(a)	<p>Added "area sources for which EPA has promulgated, and the Department has adopted, a GACT standard; or"</p>
340-32-5000(1)(b)	<p>Added "area sources for which an emissions limitation has been developed and adopted by the Department."</p>
340-32-5000(2)	<p>Added "Permit requirements. All area sources subject to GACT standards promulgated by the EPA, or emission limitations developed by the Department and adopted as rule by the Commission, are temporarily deferred from the requirement to obtain a federal operating permit until such time as the Department determines how the program should be structured and completes rule making."</p>
340-32-5000(3)	<p>Added "Emissions Limitation for Area Sources"</p>

RULE CITATION	CHANGE TO RULE
340-32-5000(3)(a)	Added "Generally Available Control Technology (GACT) may take the form of control technology requirements or performance standards. GACT may include, but is not limited to, work practice modifications, material substitutions, pollution prevention techniques, alternative technology, process changes, or other options, as well as emissions control technologies. In some cases GACT may be identical to MACT for control of major source HAP emissions."
340-32-5000(3)(b)	Added "Any person who proposes to operate an area source after a GACT standard has been promulgated by EPA shall comply with the applicable GACT requirements."
340-32-5000(3)(c)	Added "Any person who proposes to operate an area source after the Commission has adopted an emissions limitation, shall comply with the applicable requirements."
340-32-5100	Added "340-32-5400"
340-32-5400(2)	Deleted "General Duty. The owner or operator of a stationary source at which a substance listed in Table 4 is present in greater than the threshold quantity shall provide for the prevention and detection of accidental releases and for response to such release."
340-32-5400(3)	Added "340-32-5400(2)"
340-32-5400(4)	Added "340-32-5400(3)"
340-32-5400(3)	Deleted "(3)" Added "(2) , as required by federal regulations"
340-32-5400(3)(a)	Deleted "as required by federal regulations"
340-32-5400(3)(b)	Added "and"
340-32-5400(3)(c)	Added "submit as part of the compliance certification required under OAR 340-28-2160, annual certification to the Department that the risk management plan is being properly implemented."
340-32-5400(5)	Added "340-32-5400(4)"
340-32-5400(4)(a)	Deleted "required to" Added "shall" Deleted "(3)" Added "(2) according to the schedule promulgated by the EPA." Deleted "at the time federal accidental release prevention regulations are promulgated shall comply within 3 years of the date of promulgation."
340-32-5400(4)(b)	Added "prepare and implement a risk management plan according to the schedule promulgated by the EPA." Deleted "comply within 3 years of becoming subject to the federal accidental release prevention regulations."
340-32-5500	Added "340-32-5500 through 340-32-6000 [Reserved]"

Oregon Department of Environmental Quality
Air Quality Industrial Source Control Advisory Committee
Members

Chair

Arno Denecke
Salem, OR

Environmental

Karyn Jones
Citizens for Environmental Quality
Hermiston, OR

Ex Officio

Don Arkell
Lane Regional Air
Pollution Authority
Springfield, OR

Public-at-Large

Janet Neuman
Lewis and Clark College
Northwestern School of Law
Portland, OR

Environmental

John Charles
Oregon Environmental Council
Portland, OR

Pulp and Paper and Wood Products

Bob Prolman
Weyerhaeuser Company
Tacoma, WA

Electronics

Bonnie Gariepy
Intel Corporation
Hillsboro, OR

Public-at-Large

Joe Weller
Hillsboro, OR

Regulated Community

Candee Hatch
CH₂M Hill
Portland, OR

Industry

Jim Whitty
Associated Oregon Industries
Salem, OR

Air Toxics

Day Morgan
Tigard, OR

Proxies

John Arum, Ziontz, Chestnut, Varnell, Berley & Slonim, Seattle, WA
for John Charles

Bob Palzer, Sierra Club, Portland, OR, for Joe Weller

Mark Morford, Stoel Rives Boley Jones & Grey, Portland, OR
for Jim Whitty

Oregon Department of Environmental Quality
Air Quality Industrial Source Control Advisory Committee
Meeting Schedule

February 2, 1993

February 24, 1993

March 8, 1993

March 24, 1993

April 13, 1993

April 21, 1993

May 11, 1993

June 9, 1993

July 21, 1993

August 18, 1993

August 31, 1993

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Rulemaking Proposal
for
Federal Operating Permit Program

Rule Implementation Plan

Summary of the Proposed Rule

In 1990, the Federal Clean Air Act was amended by Congress in order to expand and improve air quality permitting programs as part of a comprehensive clean air strategy. The amendments place strict controls on emissions of hazardous air pollutants (Title III) and compel certain industrial sources to obtain operating permits (Title V). Title V resembles the NPDES program under the Clean Water Act and requires each state to develop an operating permit program which must be approved by EPA.

The proposed rules will enable the Department to implement the federal operating permit program. Failure to develop an approvable program will result in mandatory federal sanctions and ultimate control of the industrial source program by EPA. Under the proposed rules, regulated sources must assume more responsibility for achieving compliance and for demonstrating their compliance status. Unlike the Air Contaminant Discharge Permits ("ACDP" or "state program"), the new federal permits will contain all standards with which the sources must comply. The added certainty and increased emphasis on compliance in the new program will result in an indirect reduction of criteria pollutant emissions.

The proposed rules also contain new requirements for controlling emissions of hazardous air pollutants. As proposed, the program will increase the number of industrial sources required to control emissions and the number of industrial pollutants regulated. These new standards will achieve significant reductions of hazardous air pollutant emissions. Implementation of these rules fills a major gap in our current program and is a critical element of a federally approvable state program.

The rules will affect two types of sources:

- * Any source which emits more than 100 tons per year of any criteria pollutant ("major" sources)
- * Any source which emits more than 10 tons per year of any single hazardous air pollutant, or 25 tons per year of any combination of hazardous air pollutants (Title III sources)

Both of these types of sources must obtain a federal operating permit.

-called "minor" sources of hazardous air pollutants are also subject to the Act but will receive a deferral until the Department has sufficient resources to regulate them. Unless they are governed by the federal program, sources which were previously subject to the ACDP program must still obtain such permits. Under the new program, no source will be required to have more than one permit.

Proposed Effective Date of the Rule

The rule will become effective immediately upon adoption by the Environmental Quality Commission and upon filing with the Secretary of State. The anticipated date of filing is late October 1993. However, EPA must approve the state program before sources can be issued Title V permits. EPA is expected to act on the program submittal no later than November 1994.

Proposal for Notification of Affected Persons

The Department has identified some 300 sources which will be subject to the new program. These 300 sources are approximately evenly divided between Title V sources and Title III sources. Most of these sources are on the Division mailing list and received the proposed rule package in May of this year. The Department is in the process of choosing among six different strategies for calling in applications. Some of the options being explored include classifications based on geography or type of industry. Once an option is selected, all potential affected sources will be notified by mail of their likely permit obligations.

In anticipation of EPA program approval, the Division will begin phasing in the program prior to official EPA action. Selected sources will be notified in February 1994 and given the opportunity to submit permit applications in advance so that their permits may be issued at the earliest possible date. This trial run will give the Division experience in issuing Title V permits prior to receiving the large number of applications expected under the new program. All affected sources must submit permit applications to the Department within 1 year of the date of EPA approval or by November 15, 1994.

Proposed Implementing Actions

As part of the implementation strategy for these rules, the Division has taken, or will take, the following actions:

- * Prepared September 1992 Title V workload analysis (explained in more detail below)
- * Identified and delegated Title V tasks
- * Created a timeline and strategy for completion of Title V tasks
- * Developed an implementation plan which includes the following:
 - (1) drafting of a permit writer's guidance handbook
 - (2) assembly of a compliance/enforcement manual
 - (3) creation of a guidance document for individual sources
 - (4) development of an adequate data system
 - (5) revision and renumbering of the Air Quality Division's administrative rules
 - (6) formulation of a completeness determination strategy for permit applications
 - (7) establishment of a program for synthetic minor sources (sources which voluntarily choose to limit their emissions and remain within ACDP)
 - (8) creation of new forms which will consolidate reporting requirements

(All of these tasks but #4 are substantially completed)
- * Promulgated OAR's modeled on the federal Part 70 rules (the rules at hand)
- * Successfully lobbied Legislature to pass SB 912 (strengthening the civil and criminal enforcement powers of the Division)
- * Successfully lobbied Legislature to pass SB 86 (granting authority to collect emissions fees to fully fund the direct and indirect costs of implementing Title V)
- * Currently negotiating implementation agreement with EPA (will establish a communications mechanism to facilitate EPA oversight)

In the Title V Workload Analysis, the Division projected personnel, resource, and budgetary needs under the new program. As a result, the following program changes will occur:

- * Fees will increase from \$13/ton to approximately \$30/ton (this amount is mandated by the new Clean Air Act and is tied to the Consumer Price Index)
- * Base fees of \$2500 will be established and user fees will also be assessed

- * The Division will become self-supporting and no General Fund revenue will be required.
- * The Division will hire 29 new personnel, most of those in the regional offices
- * By the 1995-97 biennium, the program will be fully staffed and phased-in

Proposed Training/Assistance Actions

The Division has provided, or will provide, the following training and/or materials to Department personnel:

- * Permit Writer's Manual
- * Compliance/Enforcement Manual
- * Ed-Net Statewide Field Personnel Training Sessions
- * Training Forums for Compliance Testers

The regulated community and other interested parties will receive, or have received, the following assistance:

- * Individual Source Guidance Documents
- * Ed-Net Statewide Information Sessions
- * Emissions Fee Manual

Environmental Quality Commission

- Rule Adoption Item
- Action Item
- Information Item

Agenda Item D
September 10, 1993 Meeting

Title:

1993-95 Assessment Deferral Loan Program (Sewer Safety Net)

Summary:

The Assessment Deferral Loan Program (ADLP), commonly referred to as Sewer Safety Net, was implemented by the 1987 Legislature. The program is intended to address financial hardship related to sewer assessments on low income homeowners that live in areas where collector sewers are mandated by the State.

The 1993 Legislature approved a budget of \$5,863,021 for the program in 1993-95. There are four cities that plan to utilize ADLP funds: Eugene (\$ 1,231,234), Gresham (\$ 996,714), Oregon City (\$ 469,042) and Portland (\$ 3,166,031). The Sewer Safety Net programs of each community to receive funds must be approved by the Environmental Quality Commission.

The basic criteria for approval of an applicant program is the degree to which the applicant program meets the intent of the ADLP by assisting property owners who are experiencing "extreme financial hardship" as a result of the construction and connection assessments related to the installation of an eligible sewage collection system. The 1991 Legislature also directed the Department to assure that no applicant program be more generous than the programs that had been approved at that time. The Department finds that the four applicant programs meet the eligibility criteria.

The Legislatively Approved Budget authorizes the sale of Pollution Control Bonds to provide the \$5.9 funding to be disbursed to the cities. The bond sale is expected to take place in the spring of 1994. Due to the uncertain timing of assessment deferral loan repayments, the Legislature included lottery proceeds in the Department's biennial budget for the payment of debt service on these bonds.

Department Recommendation:

Approve the Assessment Deferral Loan Programs presented by the cities of Eugene, Gresham, Oregon City and Portland and the supporting findings presented in the staff report.

Maggie Bredlove

Report Author

Barbara Burton for Downs Sh. Hermood Sr. F.H.

Division Administrator

Director

8/17/93

†Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

State of Oregon
Department of Environmental Quality

Memorandum[†]

Date: August 11, 1993

To: Environmental Quality Commission
From: Fred Hansen, Director
Subject: Agenda Item D, September 10, 1993, EQC Meeting

1993-95 ASSESSMENT DEFERRAL LOAN PROGRAM
(SEWER SAFETY NET)

Statement of the Issue

Administrative rule requires Environmental Quality Commission approval of the applicant cities' Assessment Deferral Loan Programs before they can receive funding for deferrals financed in the 1993-95 biennium.

Background

The Assessment Deferral Loan Program (Sewer Safety Net) was implemented by the 1987 Legislature as a means to ameliorate the financial hardship of sewer assessments on low income homeowners in areas where collector sewers are mandated by the State. The 1993 Legislature approved a budget of \$5,863,021 in bond funds for the 1993-95 program. Before these funds can be allocated, the programs of the applicant communities must be approved by the Environmental Quality Commission.

The basic criteria for approval or disapproval of an applicant program is the degree to which the applicant program meets the intent of the Assessment Deferral Loan Program by assisting property owners who are experiencing "extreme financial hardship" as a result of the cost of construction and connection to an eligible sewage collection system.

The four applicants for the 1993-95 biennium - Eugene, Gresham, Oregon City, and Portland - have all received funding allocations in prior bienniums. The programs presented here are essentially the same as the programs approved for these cities in the 1991-93 biennium.

[†]Accommodations for disabilities are available upon request by contacting the Public Affairs Office at (503)229-5317(voice)/(503)229-6993(TDD).

Memo To: Environmental Quality Commission
Agenda Item D
September 10, 1993 Meeting
Page 2

Authority to Address the Issue

OAR 340-81-110(1)(b) requires that public agencies receiving Assessment Deferral Loan Program funds receive the approval of the Commission. OAR 340-81-110(3)(c) requires the Department to review eligibility of applicant programs and recommend approval or disapproval to the Commission. The Commission has previously reviewed and approved all applicant programs for the 1987-89, 1989-91 and 1991-93 bienniums.

Alternatives and Evaluation

The Department has reviewed the applications of the cities of Eugene, Gresham, Oregon City and Portland. We find that all of these programs meet the eligibility and application requirements set out in Oregon Administrative Rule 340-81-110. The Department recommends approval of all four of these programs as meeting the intent of the program.

The Commission may choose to find that one or more of the applicant programs do not meet the intent of the program and exclude them from funding in the 1993-95 biennium.

Summary of Any Prior Public Input Opportunity

Each community involved public input in the development of their program.

Conclusions

Eugene, Gresham, Oregon City, and Portland meet the requirements and the intent of the Assessment Deferral Loan Program.

Recommendation for Commission Action

It is recommended that the Commission approve the Assessment Deferral Loan Programs of the cities of Eugene, Gresham, Oregon City and Portland as they are presented in Attachment A of the Department Staff Report together with the supporting findings presented above.

Memo To: Environmental Quality Commission
Agenda Item D
September 10, 1993 Meeting
Page 3

Attachments

- A. Program Summaries
- B. Allocations

Reference Documents (available upon request)

- 1. Statutory Authority: Oregon Revised Statute 454.430 through 454.445
- 2. Applicable Rule(s): Oregon Administrative Rule 340-81-110

Approved:

Section:

Peggy K. Halferty for Martin Loring

Division:

Barbara Burton for Downs

Report Prepared By: Peggy Halferty
Maggie Breedlove

Phone: 229-6412
229-6878

Date Prepared: August 10, 1993

(ADLP_002.EQC)
(8/10/93)

PORTLAND

EQC 4/25/1986

Threat to Drinking Water

Mid-Multnomah Co.

Portland continues to meet the basic eligibility requirements for the Assessment Deferral Loan (ADLP) Program. Their 1993-1995 ADLP program has no substantive changes from their 1991-1993 ADLP program, as described below.

Eligibility: Owner-occupied homes are eligible for a five-year deferred loan at 5% interest for a part of the assessment and connection costs.

Income: Income includes the gross household income less any unreimbursed medical and nursing home costs, child support, the annualized costs of sewer assessments above \$4500, and the annualized costs of private plumbing connections above \$1999.

Net Household Assets: Net household assets which could be available for liquidation or for use as collateral (less the primary residence, its contents and one car) are limited to \$20,000. Applicants over the age of 50 may hold net household assets of up to \$50,000.

Deferrals: Portland defers 50% of the assessment at 175% of the poverty level and defers 100% at 125% of the poverty level. Deferral loans:

- may be extended if the applicant continues to qualify.
- may be assumed by qualifying heirs to the property.
- must be paid in full if the property is sold or transferred.
- are amortized over five to 20 years, with monthly payments, depending upon the total principal and accrued interest outstanding at the end of the deferral period.

The program was developed in conjunction with the Citizen Sewer Advisory Board which continues to monitor the program and review any proposed changes. The Department has reviewed the administration of the program, the schedule for construction, and the resolution passed by the City Council adopting the program. These meet the requirements of the program.

GRESHAM

EQC - 4/25/1986

Threat to Drinking Water

Mid-Multnomah Co.

Gresham continues to meet the program requirements for the Assessment Deferral Loan Program. Gresham made several changes to their eligibility requirements in May of 1992.

Eligibility: Owner-occupied homes are eligible for a deferred loan at 5 percent interest for a part of the assessment and connection costs. Sole proprietorships and partnerships may qualify for the deferred loans on a basis equivalent to the owner-occupied homes.

New income guidelines combined the 80 and 50 percent loan levels with the 100 percent loan level. The 20 percent loan was raised to an 80 percent loan.

Household Size	150% of Poverty Level 100% Loan	200% of Poverty Level 80% Loan
1	9,864	13,240
2	13,231	17,760
3	16,599	22,280
4	19,966	26,800
5	23,333	31,320

Gresham offers a city-funded deferral loan for household incomes between 200 percent and 250 percent of poverty level.

Income includes the gross household income less documented unreimbursed medical payments, child care, sewer related costs, expenses to support other households (i.e., child support, alimony, dependent parents and children.) Net household assets excluding the primary residence, its contents, accumulated assets that generate income to supplement retirement, and one car are limited to \$20,000. For assets between \$20,000 and \$25,000, the homeowner may qualify for a deferred loan for the amount that the assessment exceeds the difference between assets and \$20,000.

Environmental Quality Commission

Agenda Item D

September 10, 1993 Meeting

ATTACHMENT A: Review of 1993-95 Applications: PROGRAM SUMMARIES

For sole proprietorships and partnerships, income is the gross income less payroll expense of non-owners. A sole proprietorship has a household size of one. Partnerships have the number of household members as the number of active partners.

Deferrals: Deferral recipients complete a questionnaire every three years to confirm continued eligibility. The deferral may continue until the property is sold or transferred.

The Department has reviewed the administration of the program, public involvement, the schedule for construction, and the resolution passed by the City Council adopting the program. These meet the requirements of the program.

EUGENE

**Grant Agreement - 10/5/1984
Threat to Drinking Water**

River Road/Santa Clara

Eugene meets the basic eligibility requirements for the Assessment Deferral Loan Program.

Eligibility: Owner-occupied homes are eligible for a deferral of all or a part of the assessment and connection costs if the homeowner owns no interest in another property allowed a deferral. If the household income is:

- less than 150% of the federal poverty level, the homeowner may defer 100% of all components of the assessment and connection costs.
- at 150% to 175% of the federal poverty level, the homeowner may defer 100% of the trunk costs only, which average 55% of the total eligible items for deferral.
- at 175% to 200% of the Federal Poverty Level, the homeowner may defer only 50% of trunk costs.
- above 200% of the poverty level **and** the homeowner experiences hardship due to ownership of large lots or the annualized costs of the assessment is greater than 4 to 5% of their annual income, the homeowner may qualify for a deferral.

Eligibility of deferral recipients is reviewed each year

Deferrals: The deferral may continue until the property is sold or transferred, or until the homeowner fails to qualify two years in a row.

The Department has reviewed the information on the administration of the program, public involvement, the schedule for construction, and the resolution passed by the City Council adopting the program. These meet the requirements of the program.

Environmental Quality Commission
Agenda Item D
September 10, 1993 Meeting
ATTACHMENT A: Review of 1993-95 Applications: PROGRAM SUMMARIES

OREGON CITY

Oregon Health Division - 11/17/1988
Health Hazard Area

Holcomb, Outlook, Park Place (HOPP) Area

The City of Oregon City passed a resolution authorizing and approving an Assessment Deferral Loan but the program has not received formal adoption by the City Commissioners. The project has been completed but assessments have not been made.

Eligibility: Owner-occupied homes are eligible for a deferral of all or a part of the assessment and connection costs if the household income is less than 200 percent of federal poverty level.

The deferral loan percentage is cross-tabulated on the percent of federal poverty level (income that is received on an annual basis) and occupancy costs (proposed sewer assessment payments, taxes mortgage payments, insurance, utilities and normal annual maintenance) to form an extensive matrix.

Deferrals: The deferral may continue until the property is sold or transferred or until the 20th year following the assessment of costs and connection charges. An annual statement of gross income is required to maintain the deferral. An increase in the ability to pay will increase the portion of the deferral subject to semi-annual payment.

The program was developed in cooperation with the Park Place/Holcomb Neighborhood Association Sewer Committee.

Environmental Quality Commission
 Agenda Item D
 September 10, 1993 Meeting
 ATTACHMENT B: ALLOCATIONS

ADLP Allocations

	Sewer Connects	Poverty Indicator	1993-1995 Allocation	Principal Owed	Interest Owed	Balance Owed	No. of ADLs
Eugene	2,501	25%	1,231,234	288,348.05	5115.80	293,463.85	67
Portland	12,370	27%	996,714	797,196.28	120,706.22	917,902.50	226
Gresham	6,099	26%	469,042	158,211.38	22,154.60	180,365.98	75
Oregon City	347	50%	3,166,031	0	0	0	0
TOTAL	21,317		5,863,021	1,243,755.71	147,976.62	1,391,732.33	368


NOTE: Current balances are as of June 30, 1993.

State of Oregon
Department of Environmental Quality

Memorandum

Date: September 7, 1993

To: Environmental Quality Commission

From: Olivia Clark, Assistant to the Director 

Subject: Report on 1993 Legislative Session

After a record 207 days in session, the 67th Legislative Assembly adjourned on August 5 at 4:15 A.M. The Assembly acted upon a wide variety of natural resource issues including air quality, environmental crimes, watershed management, and changes to the land use laws. A complete summary of legislation important to the Department is being prepared and will be delivered to the Commission upon completion. Until this reference document is finalized I have attached a short list of DEQ legislative highlights accompanied by a longer list of legislative measures that will impact the operation of the Department.

The Department took a "no business as usual" approach in developing its 1993 legislative agenda. While compliance with federal mandates was critical, the Department also sought increased efficiencies, pollution prevention strategies and measures that empowered others and encouraged partnership. Several new initiatives such as the "liveable communities" project were approved at the same time continued support was given for efforts towards achieving healthy air quality, cleaning up hazardous waste sites, and protecting water quality.

DEQ LEGISLATIVE HIGHLIGHTS

Environmental Crimes

Provides Oregon with the criminal authority necessary to prosecute extreme violations of environmental law that are committed knowingly and which damage the environment or pose a serious threat to public health.

Air Quality

Two initiatives will insure healthy air in Oregon. SB86 will enable Oregon to operate the federal industrial air pollution permitting program and represents a shift toward the regulation of hazardous industrial air pollutants. Secondly, the legislature adopted HB2214 which contained recommendations made by the Governor's Task Force on Motor Vehicle Emission Reductions in the Portland Area.

Lower Columbia River Bistate Water Quality Study

The legislature approved continuation of the cooperative effort between Oregon and Washington to study the water quality of the lower Columbia River system. The joint effort will identify water quality problems and trace their sources, determine if beneficial uses are impaired and develop solutions to those problems.

Technical Assistance to the Regulated Community

The Governor recommended and the legislature approved continuing the trend towards increased technical assistance, outreach and responsiveness to the regulated community. The complexity of environmental programs and pollution control systems, including compliance assurance and citizen complaint response, has increased the need to technical assistance particularly to small businesses and local governments.

Watershed Health and Management

The legislature authorized a pilot watershed management project in priority watersheds to focus on achieving sustainable, comprehensive watershed health. The pilot will use voluntary local watershed councils to prepare and implement Watershed Action Programs to address short and long term needs in each basin.

Other bills of interest from the 1993 Legislative Session:

Water Quality:

- State Revolving Fund (HB2070)
- Watershed Councils (HB2215)
- Agricultural Practices Act (SB1010)
- Confined Animal Feeding Operations (SB1008)

Air Quality

- Governor's Task Force on Motor Vehicle Emissions (HB2214)
- Industrial Air Program (SB86)
- Lane Regional Air Pollution Authority (HB2847)
- Ethanol Tax Credit Sunset (HB2456)

Hazardous and Solid Waste

- Solid Waste Statute Rewrite (SB42)
- RCRA Subtitle D -Landfills (SB1012)
- Underground Storage Tank Financial Assistance (HB2776)
and Fees (SB87)
- Constitutional Amendment related to environmental cleanup (HJR69)
- Rigid Plastics Recycling (SB1009, SB641)
- Recycling Markets Development Council (SB1011)
- Recycling of Household Oil (HB1014)
- Solid Waste Fees (SB1036 & SB1037)

Environmental Clean Up

- Orphan Site Clean Up (HB3177)
- Drug Lab Clean up (HB2381)
- Soil Pile Aeration (SB315)
- Oil Heat Commission (SB1015)

Enforcement

- Environmental Crimes (SB912)

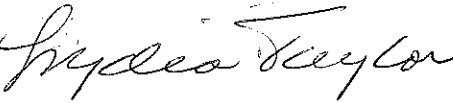
Management Services Division

- Environmental Protection Teams (or "Liveable Communities" SB81)
- Agency Rulemaking Procedures (HB2262)
- Government Reorganization (SB1130)

Date: September 9, 1993

To: Environmental Quality Commission

From: Fred Hansen, Director



Subject: Methods of Calculating Economic Benefit
and Inability to Pay.

Economic Benefit

Economic Benefit is defined by OAR 340-12-045(c)(1)(F) as "the approximated sum of the economic benefit that the Respondent gained through noncompliance." This provision allows the Department to increase a civil penalty by the amount determined to be the economic benefit, so long as the total penalty does not exceed the maximum daily amount allowed for the violation.

The objective of recovering economic benefit is to cancel any economic gains from delayed compliance thereby removing the advantage that the violator gained in comparison to companies or individuals that complied on time.

When adopting the revisions to Division 12 in July 1992, the Department informed the Environmental Quality Commission (EQC) that the Department would review the methods of calculating economic benefit and return to the EQC and advise how the Department would calculate economic benefit, as well as determining the ability to pay a civil penalty assessment, if the violator pleads financial hardship. This memorandum sets forth the methodologies chosen by the Department, after reviewing DEQ's historical approach to determining economic benefit and after reviewing the State of Connecticut's and Georgia's methods, and EPA's method of determining economic benefit. Many of the other states use the EPA's model for calculating the economic benefit of noncompliance (BEN) or use BEN with some minor modifications.

While the BEN system can be applied to a number of situations, there are situations where there is an economic benefit to the violator, but the benefit is difficult, if not impossible to calculate. An example of this would be where the violation stems from a failure by the violator to maintain an inspection program on pollution control equipment, and the violation is due to the breakdown of this equipment. While there is a cost to an inspection program the cost may not be readily quantifiable.

Calculating Economic Benefit

In cases where some or all of the costs to maintain or achieve compliance is quantifiable, the Department intends to capture the economic benefit of noncompliance by employing one of three methods which best fits the circumstances of the violation. These methods are consistent with standard economic principals and use the BEN model EPA has developed. BEN is available for DEQ Enforcement Section use through a computer link with the EPA mainframe computer in North Carolina. In the first example BEN is not used, but is replaced by an easier method of calculation. In examples two and three, BEN is the recommended method of determining economic benefit. Therefore, when the Department determines that economic benefit can be calculated, the Department will use one of the following models in determining the economic benefit to the violator.

Example One: Compliance requires a single expenditure

In cases where in order to comply, the violator would have had to make a single expenditure and no significant amount of time passed between discovery of the violation and when the expenditure should have been made, the dollar sum of that expenditure needed to comply will be considered the economic benefit and be added to the civil penalty assessed.

An example of this method is when solid waste is open burned illegally rather than properly disposed of in a landfill. The economic benefit added to any civil penalty assessed would be the cost of proper disposal. No further calculation is necessary in determining economic benefit using this method for the single expenditure situation.

Example Two: Compliance requires a single expenditure and a significant amount of time passes

In cases where in order to comply, the violator would have had to made a single expenditure, but a significant amount of time has or will pass before the expenditure will be made, the benefit to the violator is captured through an analysis made by BEN. In this case, BEN calculates the return on an investment the violator would expect over the period of time that the violation occurred.

An example of applying this would be where a violator, in order to comply with hazardous waste regulations, should have manifested hazardous waste off-site in September of 1991 at a cost of \$10,000. The economic benefit of waiting two years to ship the waste would be the interest received by the violator delaying the expenditure of that \$10,000 over that two year period. BEN calculates this to be \$1,300.

Example 3: Capital expenditures with on-going operations and maintenance and other related costs

In cases where there is a direct capital expenditure, operation and maintenance costs, tax deductions for the expenditures, cost of capital and other related costs to gain compliance, the Department recommends using BEN.

An example of applying this would be where a violator needed to install specific pollution control devices at a point in the past in order to comply with environmental regulations, yet failed to do so. The BEN model takes into account variables that include the tax advantages for capital expenditures and operating costs. An example on how BEN makes these calculations will be demonstrated at the EQC's September 9, 1993 meeting.

Inability to Pay

After a civil penalty is assessed, the Department has the ability to consider Respondent's financial condition and determine whether Respondent has the ability to pay the full penalty amount (OAR 340-12-045(3)). When this occurs the Respondent has the responsibility to provide the Department documentary evidence to support the claim. The Department has procedures in place to review claims of inability to pay. Basically, the Department requests specific information on forms that have been developed by the business office, together with the Respondent's last three years worth of tax forms. Two different forms have been developed, one for individuals and one for businesses. The business office then reviews this information and determines if the person does or does not have the ability to pay the civil penalty assessed either in a single payment, or on a monthly schedule.

EPA has developed a companion computer program to BEN called ABEL which can be used in certain specific cases. The main limitation of the ABEL program is that the Respondent must be a Federal Tax Form 1120 or 1120-A filer for a minimum of the last three years. This limits its use by the Department since the claim of inability to pay typically is made by Respondent's who are individuals, small partnerships or closely held small corporations.

State of Oregon
Department of Environmental Quality

Memorandum

Date: August 16, 1993

To: Environmental Quality Commission
From: Fred Hansen *Rebecca Taylor*
Subject: Agenda Item I, September 10, 1993 EQC Meeting
Work Session Discussion: Environmental Performance Measures

Oregon Benchmarks have been in place since 1991 and have provided Oregonians with measurable goals. Some of the benchmarks are only slightly affected by state efforts, for example the percentage of adults who maintain a recommended weight-to-height ratio. Other benchmarks directly relate to state efforts, such as percentage of wastewater discharge permits issued within the target time period or less. During this past legislative session, the benchmarks were an important part of the budgeting process.

Performance measures are to an agency what *Oregon Benchmarks* are to the state. The idea is to set goals and measure how effective and efficient we are in our efforts to achieve DEQ's mission. Last year the Executive Department began a program to get all state agencies to institute performance measures. DEQ was in the second wave of agencies to receive training and begin performance measures. The Department has been measuring and reporting its performance for over a year to the Executive Department. The goal for the year was to make an initial effort to gather data. Now that we have the information, DEQ can begin a more meaningful evaluation of the agency's performance. This work session discussion is an opportunity for the Department to review and revise its measures with input from the EQC.

Performance measures are supposed to focus on results rather than workload. The goal is to have measures for effectiveness (how well are we doing) and efficiency (how well are we doing per FTE -- full time equivalent employees).

Performance measures rely on matrices that show the baseline, or average, performance and the potential, which is the best level that could possibly (but realistically) be achieved. Each quarter the actual achievement corresponds to a level on the scale between the baseline and potential. The actual result gets a score. Each measure is weighted, so that the results that are most important have a bigger impact on the overall score. Though the matrix is filled with numbers and may be hard to read at first, it provides a good snapshot of where we are, where we could be, and the relative value of the various results.

When DEQ developed its performance measures, we decided they did not want to weigh one type of environmental protection against another. For example, they did not want to

Memo To: Environmental Quality Commission
August 16, 1993
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compare the importance of clean air to that of clean water. DEQ's measures are broken down into separate program area measures, with an agency-wide matrix to look at agency management measures. The agency has a total of 41 measures.

The descriptions of the measures are found in Attachment A, as well as the matrices for the past five quarters in Attachment B. Some of the measures are solid and useful, while others need to be changed. New measures will be proposed at the work session discussion. It will be very helpful to get feedback from the Commission about what measures should be established to more fully explain DEQ's work.

PERFORMANCE MEASURES AT DEQ

ENVIRONMENTAL CLEANUP

1. HAZARDOUS SITE EQUIVALENTS/FTE

Definition: Measures the number of site activities completed each quarter per FTE. A **hazardous site equivalent** is a weighted measure of the various site investigation and cleanup activities completed during the quarter. Activities include site screening, preliminary assessments (PA), expanded preliminary assessments (XPA), remedial investigations (RI), feasibility studies (FS), remedial designs (RD), remedial action (RA), removals, spill responses, drug lab cleanups, and site scoring, underground storage tank matrix site cleanups, and underground storage tank groundwater cleanups. These varied activities are converted to site equivalents for measurement as described in the example below. **FTE** includes all program labor directly funded by ECD, including DEQ direct charge personnel and professional services (e.g., directly funded DEQ labor, contractors, Department of Justice labor. It excludes ECD funded indirect management services charges).

Demonstrates: Measures outputs against the FTE's required to produce those outputs -- i.e., the program's efficiency in using FTE's to address sites which have experienced a release of hazardous substances. This measurement can be converted to a cost measurement using costs/FTE.

Example: A site screening is used as the baseline site equivalent unit (s.e.). A site screening requires an average of 8 hours to complete. All other activities are converted to multipliers of the site screening hours (i.e., average number of hours required to complete each of the various phases of site work divided 8 = site equivalents for that activity). These estimates will change after baseline data are calculated. Example:

20 site screenings @ 1 s.e.	2 RI @ 30 s.e.
10 site listings @ 1.5 s.e.	1 FS @ 20 s.e.
6 site scorings @ 2.5 s.e.	1 RD @ 20 s.e.
5 PAs @ 10 s.e.	1 RA @ 40 s.e.

$$\frac{20 + 10(1.5) + 6(2.5) + 5(10) + 2(30) + 1(20) + 1(20) + 1(40)}{40 \text{ FTEs}} = \frac{235.5}{40} = 5.89 \text{ FTE}$$

2. SITE LABOR HOURS/TOTAL HOURS WORKED

Definition: Measures the percentage of labor hours devoted to site-specific activities each quarter. **Site labor hours** includes all ECD-funded labor hours worked on all phases of site-specific activities each quarter, including DEQ labor and professional services. "Site-specific activities" include the site investigation and cleanup activities described for P.M. 1 and 2. **Total hours worked** includes all labor hours directly funded by ECD and actually worked each quarter. It excludes the hours of

paid leave (e.g, sick leave, vacations, holidays) and indirect labor hours (e.g., management services labor charged indirectly). Total labor hours captures the labor hours from the denominators for P.M. 1 and 2 minus paid leave.

Demonstrates: Measures the percentage of labor hours worked directly on sites versus non-site specific administrative support activities (e.g., planning; budgeting; personnel management; training; development of legislation, rules, policy and guidance; tracking and reporting; non-site specific public outreach). Both site specific and administrative support activities are necessary to accomplish ECD's mission -- to reduce threat to public health and the environment by identifying and cleaning up releases of hazardous substances. Maximizing the hours spent directly on sites is generally desirable. However, increasing administrative support is desirable if it results in increased efficiency or effectiveness in other performance measures.

Example: $\frac{4800 \text{ site labor hours}}{7200 \text{ total labor hours}} = 67\% \text{ site labor hours}$

3. ADMINISTRATIVE SITE HOURS/TOTAL SITE HOURS

Definition: Measures the percentage of site-specific hours (numerator in P.M. 3) worked on site-specific administrative tasks. **Administrative site hours** includes the site-specific hours worked on administrative activities (i.e., listing and scoring sites, updating ECSI, negotiating agreements, recovering costs, and typing and filing). **Total site hours** includes all site-specific labor hours identified in the numerator of P.M. 3 for the quarter.

Demonstrates: Measures the percentage of site-specific time devoted to administrative support tasks versus direct investigation and cleanup activities. The goal is to reduce the ratio of administrative hours except as they support other performance measures or program objectives (e.g., providing public information).

4. SEVERITY RANKING OF REMEDIAL ACTION SITES (non-LUST)

Definition: Measures the severity of non-LUST sites undergoing remedial action. **Severity ranking of remedial action sites** is the sum of the Inventory Ranking Scores for all non-LUST sites in remedial action phases (RI/FS, including pre-RI development, or beyond) which ECD works on during the quarter.

Demonstrates: Severity ranking is a comparative measure of the threat to human health and the environment which ECD is addressing through remedial investigation and cleanup each quarter. This measure cannot be implemented until all remedial action sites are scored (estimated by December 1992).

Example: 10 remedial action sites are worked on during the quarter with respective scores of 55, 31, 15, 46, 30, 27, 60, 49, 22, 12. Severity ranking is 347.

5. SEVERITY RANKING OF INACTIVE INVENTORY SITES (non-LUST)

Definition: Measures the severity of non-LUST Inventory sites pending remedial action. **Severity ranking of inactive inventory sites** is the sum of the Inventory Ranking Scores of all sites on the Inventory not undergoing remedial action (RI/FS, including pre-RI development, or beyond) in any DEQ program during the quarter.

Demonstrates: This severity ranking is a comparative measure of the known threat hazardous substances sites pose to human health and the environment which DEQ is NOT addressing each quarter. This measure cannot be implemented until all sites on the Inventory are scored.

6. SEVERITY RANKING OF LUST SITES

Definition: Measures the severity of LUST sites undergoing groundwater cleanups. **Severity ranking of LUST sites** is the sum of the LUST Incident Prioritization System (LIPS) score for all LUST groundwater cleanup sites worked on during the quarter. (Only groundwater sites are scored.)

Demonstrates: Severity ranking is a comparative measure of the threat to human health and the environment which LUST is addressing through remedial investigation and cleanup of groundwater sites each quarter.

7. SEVERITY RANKING OF INACTIVE LUST SITES

Definition: Measures the severity of LUST groundwater sites pending remedial action. **Severity ranking of Inactive LUST sites** is the sum of the LIPS scores for all LUST groundwater cleanup sites on the LUST Inventory that DEQ did not work on during the quarter.

Demonstrates: This severity ranking is a comparative measure of the known threat LUST groundwater contamination sites pose to human health and the environment which DEQ is NOT addressing each quarter.

8. TOTAL COSTS RECOVERED/TOTAL SITE COSTS

Definition: Measures the percentage of remedial action costs recovered. **Total costs recovered** includes all remedial action costs recovered from responsible parties during a designated moving time frame (e.g., 6 month or year period ending with current quarter -- the period will be set when the matrix is completed). **Total sites costs** includes all remedial action costs incurred during the time frame measured.

Demonstrates: Measures effectiveness of cost recovery efforts (e.g., PRP searches, notice and collection procedures, negotiations in remedial action agreements and bankruptcy proceedings, enforcement actions).

Example:
$$\frac{\$200,000 \text{ recovered}}{\$360,000 \text{ incurred}} = 55\% \text{ of costs recovered}$$

WATER QUALITY

1. River Miles of Beneficial Uses Protected/FTE

Definition: Number of stream miles for which the Water Quality Program can show with monitoring data or evaluation that beneficial uses are protected. (This would be the total number of FTE in the water program devoted to ambient and special assessments standards and program development.

Demonstrates: Evaluates the efficiency of the program in providing sufficient water quality in rivers to protect designated beneficial uses.

Example: The sum of FTE expended on the various water quality activities in the Laboratory, standards and assessment, and program development function. This would include samples collection and sample analysis for ambient monitoring, special assessments, TMDL developed, and the NPS effort.

This will be reported annually.

2. Acres of Lakes, Estuaries and Wetlands (LEWs) Beneficial Uses Protected/FTE

Definition: Number of LEWs acres for which the Water Quality Program can show with monitoring data or evaluation that beneficial uses are protected. This would be the total number of FTE in the water program devoted to LEW assessments, standards and program development.

Demonstrates: Evaluates the efficiency of the program in providing sufficient water quality in LEWS to protect designated beneficial uses.

Example: The sum of FTE expended on the various water quality activities in the standards, assessment and program development function. This includes samples collection and sample analysis for ambient monitoring, special assessments, TMDL developed, and the NPS effort.

This will be reported annually.

3. Square Miles of Aquifer Beneficial Uses Protected/FTE

Definition: Number of Aquifer square miles for which the Water Quality Program can show that beneficial uses are protected. This would be the number of FTE in the water program devoted to Aquifer assessments, standards and program development.

Demonstrates: Evaluates the efficiency of the program in providing sufficient water quality in Aquifers to protect designated beneficial uses.

Example: The sum of FTE expended on the various water quality activities in the standards, assessment and program development function. This includes samples collection and samples analysis for the ambient monitoring and special assessments.

This will be reported annually.

4. PERCENT OF RIVER MILES ASSESSED

Definition: The percent of river miles assessed based on a statewide total of 90,000 miles of with 27,744 miles being assessed. However, the Department is currently converting over to the EPA river reach assessment system. This river reach program is based on a map scale of 1:100,000 consequently the total state river miles increase from 90,000 to 114,000. At that time, there will be an adjustment in the river miles assessed based on the new total river miles in the state.

Demonstrates: Evaluates the programs effectiveness in monitoring the state's rivers.

Example: The assessed miles includes those assessed with actual instream water quality samples (3,500 miles) and those assessed through the statewide nonpoint source assessment conducted in 1988. The NPS Assessment covered approximately 24,000 miles of streams.

This will be reported annually.

5. PERCENT OF LAKES, ESTUARIES AND WETLANDS (LEWS) ASSESSED

Definition: The total acreage of lake, estuary and wetland assessed over the total acreage of these resources in the state.

The percent of lakes assessed is based on those examined over the last decade under the Clean Lakes program and the Department's ambient monitoring program divided into the total statewide lake acreage.

The percent of estuaries assessed is based on estuaries assessed through the Department's ambient bay and shellfish monitoring program over the total area of estuaries in the state.

The percent of wetlands assessed will be based on those assessed within the total wetlands acreage. It this time the Department does not have a program to assess the water quality within the state's wetlands.

Demonstrates: Evaluates the effectiveness of the Department's programs to assess water quality in lakes, estuaries and wetlands.

Example: The assessment of water quality in these resource areas includes assessment efforts conducted directly by the Department as well as those contract by the Department and information gathered under the voluntary lake monitoring program.

This will be reported annually.

6. PERCENT OF AQUIFERS ASSESSED

Definition: Percent of water table (sensitive) aquifers assessed per year. Almost the entire state covers aquifer, and this measure focuses on the sensitive aquifers of interest to the DEQ.

Demonstrates: Ability to assess the quality of Oregon's sensitive groundwater.

This will be reported annually.

7. POLLUTION CONTROL PROJECT EQUIVALENTS/FTE

Definition: Measures the number of treatment works project milestones or activities completed each quarter per FTE. **Pollution control project equivalents** is a weighted measure of various activities that must be completed to move a grant or loan assisted project toward completion. Activities include review and approval of all the documents that are submitted by communities building sewage treatment works with assistance from EPA construction grants or State Revolving Fund loans. They also include documents that must be prepared by the Department including various findings, permits, grant and loan documents for simple, moderately complex and complex projects. **FTE** includes all staff funded with EPA 205(g) and SRF other funds.

Demonstrates: Measures construction grants and state revolving fund outputs against staffing required to produce the outputs -- i.e. the labor efficiency of the construction grant and state revolving fund programs.

Sections: Municipal Projects and Wastewater Finance

Example: A final plan of operations review (for a non-complex project) is used as the baseline pollution control project equivalent unit (p.e.) A project equivalent requires an average of one hour to complete. All other activities are converted to multiples of the final plan of operations review hours (i.e. average number of hours required to complete each of the various milestones of project work divided by one equals project equivalents for that milestone). A matrix identifying the project equivalents per activity for non-complex, moderately complex and complex projects is attached. Note that these estimates may change after collection and analysis of baseline data.

8. PERCENTAGE OF ADMINISTRATIVE AND ACTIVITY DEADLINES MET

Definition: Measures the extent to which client requested activities and grant/loan administrative activities are completed within the appropriate time standard for responsiveness. Since the mission of the sections using this standard is to obtain resources and apply them to the solution of important water pollution problems, this measure demonstrates programmatic effectiveness.

Sections: Municipal Projects and Wastewater Finance

Example: Administrative deadlines and time standards for the completion of various activities are attached.

9. Number of sewerage facilities that fail to meet limits

Definition: This is the number of sewerage facilities that fail to meet limits in either permit or enforcement order that were processed in the section or that, after completion of a loan/grant-financed treatment plant, fail to meet water quality standards as a result of an adequate assessment of the

discharge during the permit evaluation process OR because of operational difficulties caused by improper design.

Demonstrates: Shows effectiveness of Department plan review.

10. Percent of all water quality permits processed in a timely manner

Definition: The water quality division determines what is "timely" processing for various permits. This measure shows what percentage of the permits are actually processed within that time frame.

Demonstrates: Customer service in terms of timely permit processing

HAZARDOUS AND SOLID WASTE

1. POUNDS OF OREGON SOLID WASTE DISPOSED STATEWIDE

Definition: Pounds per capita of Oregon generated municipal solid waste disposed statewide on an annual basis.

Demonstrates: Effectiveness of the recycling and waste reduction program, particularly the technical assistance and education efforts. This measure also indicates the effectiveness of the solid waste fee structure to encourage recycling and source reduction.

Note: The baseline and potential will be adjusted in June 1992 after data analysis is complete. The currently listed information is an estimate. Performance will be reported annually.

2: PERCENT OF SOLID WASTE MANAGED IN ACCORDANCE WITH THE HIERARCHY

Definition: Percent of waste generated that is managed through the following methods:
1) Recycled
2) Composted, incinerated for energy recovery, or landfilled at a landfill meeting best management practices.
3) Landfilled at a landfill with less than best management practices.

The goal is to increase the percentage as you move up the hierarchy.

Demonstrates: Effectiveness of the solid waste permitting, compliance assurance, planning and technical assistance efforts to assure that waste is managed in the most environmentally protective way and that encourages the conservation of resources.

Note: The baseline and reporting for this measure will not be provided until August 1993. Performance will be reported annually.

3: TECHNICALLY SOUND UNDERGROUND STORAGE TANKS FOR PETROLEUM AND CHEMICAL PRODUCTS

Definition: Percent of regulated community with underground storage tanks that meet technical standards.

Demonstrates: Effectiveness of the technical assistance, education and installer licensing program for owners and operators of underground storage tanks. If the tanks are installed properly and/or are technically sound there will be significantly less risk of leakage and contamination of the environment.

Note: The potential is given with the assumption that it will take 7 years to achieve 90%. This will be reported quarterly.

4. PERCENT OF HAZARDOUS WASTE MANAGED IN ACCORDANCE WITH THE HIERARCHY

Definition: Percent of hazardous waste generated by large and small quantity generators that is managed by the following methods:

- 1)Recovery and recycling
- 2)Energy Recovery and Treatment
- 3)Land disposal and Incineration

The goal is have higher percentages as you move up the hierarchy.

Demonstrates: Effectiveness of the permitting, technical assistance, education, and compliance assurance efforts to manage waste in the most environmentally protective way possible.

Note: The data for this will be available in August 1993.

5. MONTHLY AVERAGE TURNAROUND TIME ON SOLID WASTE PERMIT ACTIONS

Definition: Percent of permits processes in a timely manner. A timely standard will be established for types of permits such as new, renewal, closure, small and large sources..

Demonstrates: That the regulated community is served in a timely manner, builds credibility and a more confidence in state government by the regulated community and the public in general.

6. NUMBER OF SOLID WASTE TECHNICAL ASSISTANCE CONTACT HOURS PER TOTAL PROGRAM FTE

Definition: This is a per FTE measure of any face to face contact with a client organization or regulated entity, any presentations made at workshops, seminars, or conferences or any printed material distributed that provides technical assistance (not including memos, letters, or other individually prepared items.)

Contact hours are calculated by the number of hours actually spent multiplied by the number of organizations reached. Each piece of printed informational material distributed will be equal to .1 contact hours.

Demonstrates: It demonstrates how efficiently the agency is providing technical assistance. Technical assistance should have an impact on measure #2.

7. NUMBER OF HAZARDOUS WASTE INSPECTIONS CONDUCTED PER FTE ON A QUARTERLY BASIS

Definition: This is a measure of inspections of hazardous waste facilities and handlers per budgeted FTE. Inspections are conducted to assure Oregon businesses are complying with the regulations which establish safe and environmentally sound management methods.

Demonstrates: How efficiently staff resources are being used, both to insure compliance with hazardous waste regulations and to educated the business community about how to manage hazardous waste safely to protect human health and the environment.

AIR QUALITY

1. AIR POLLUTION EXPOSURE INDEX (APEI)

Definition: The index depicts how frequent federal air quality standards are violated, how severe the violations are, and the magnitude of Oregonians exposed to the violation.

The index is calculated by multiplying the severity of the exceedance by the magnitude of people exposed. This product is figured for each exceedance day. The index is the summation of each product. This will be based on a 12 month moving average and reported quarterly. An index of 0.00 means there were no violations during the 12 month period prior to the reporting quarter.

Demonstrates: Effectiveness of control strategies and compliance assurance mechanisms such as the provision of technical assistance, rules, permits, inspections and enforcement actions.

Sections: Program Operations, Small Business Assistance, Planning, Technical Services, Vehicle Inspections and Field Burning.

Example: If during a previous 12 month period there were two exceedance days that were each 20% over the standard and each exposed 30% of Oregon's population, the index would be 0.72. This is calculated as follows:

$$\text{Exceedance 1} = (1.20 \times .30) + \text{Exceedance 2} = (1.20 \times .30) = 0.72$$

Note: This measure can also be used as a gauge of the environment, not just human health. Where able, data will be collected for attainment areas as well as non-attainment areas. We will also list what the APEI was in 1970 and 1980 to demonstrate where we have been and how far we have come.

2. AIR POLLUTION INDEX (API)

Definition: The API value is used to objectively assess ambient air quality. A lower value of 0 to 50 means the air quality is GOOD for that day. The higher the value, the worse the air is for the environment and public.

The API values are already calculated daily. A 12 month moving average will be calculated and reported quarterly for the previous 12 month reporting period. An average index between 0 to 50 is Good, 51 to 100 is Moderate, 101 to 200 is Unhealthful, 201 to 300 is Very Unhealthful, and any value above 301 is Hazardous.

Demonstrates: Effectiveness of control strategies and compliance assurance mechanisms such as the provision of technical assistance, rules, permits, inspections and enforcement actions. Unlike the APEI in #1, this index is able to provide a quantifiable indication of air quality regardless of whether or not that quality falls above or below the federal air quality standard.

Sections: Program Operations, Small Business Assistance, Planning, Technical Services, Vehicle Inspections and Field Burning.

Note: This measure can also be used as a gauge of the environment, not just human health. Where able, data will be collected for attainment areas as well as non-attainment areas. We will also list what the API was in 1970 and 1980 to demonstrate where we have been and how far we have come.

3. ADHERENCE TO FEDERAL SUBMITTAL DEADLINES

Definition: The percentage of submittal deadlines under the Clean Air Act Amendments that are successfully met.

Demonstrates: How well Oregon is meeting its federal responsibilities. This could further be compared to the national average. Indirectly, and most importantly, the deadlines were established to ensure the quality of air is maintained or enhanced as quickly as possible. Meeting the established deadlines illustrates that Oregon on track.

Sections: All Sections

4. AVERAGE WAITING TIME ABOVE ACCEPTABLE FOR VEHICLE INSPECTIONS

Definition: The average waiting time above an "acceptable" waiting time. Frequency and Magnitude.

Demonstrates: That the customer is served in a timely manner, builds credibility and a more positive image of state government.

Sections: Vehicle Inspection Program.

5. TIMELINESS OF PERMIT PROCESSING

Definition: Percent of permits processed in a timely manner. The ideal processing time will be determined for the type of source by the program. For example, timely processing will be determined for small, large, new, renewal and controversial sources. A 12 month moving average will be calculated based on the percentage of all of the types of permits that are processed in a timely manner. This percent will be reported quarterly for the previous 12 month period.

Demonstrates: That the customer is served in a timely manner, builds credibility and a more positive image of state government.

6. NUMBER OF PERMITTED SOURCES PER FTE

Definition: Number of industrial sources on Air Contaminant Discharge Permits relative to the FTE needed to manage the program. Activities include industrial source inspection, enforcement, compliance assurance, permitting, notice of construction approval, tax credit processing, complaint response, technical assistance to sources, public involvement and information, program administration. Includes all regional office air quality activities, headquarters air quality positions primarily involved in industrial source control and an additional 3 FTE to account for other air quality staff engaged part time in support of source control programs.

Demonstrates: Efficiency of industrial source control program.

7. NUMBER OF VEHICLES INSPECTED PER FTE PER MONTH

Definition: The number of vehicles inspected per the number of FTE in the Vehicle Inspection Program.

Demonstrates: The efficiency of the Vehicle Inspection Program.

AGENCY-WIDE MEASURES

1. PERCENTAGE OF TIME SPENT BY INFORMATION SERVICES DEVELOPMENT DIRECTLY SUPPORTING THE DIVISION RESPONSIBLE FOR THEIR FUNDING

Definition: Percentage of time spent by Information Services development staff directly supporting the funding division.

Demonstrates: Efficient use of development staff allocated to and funded by program divisions.

2. PERCENTAGE OF TIME SEQUENT/ORACLE IS AVAILABLE FOR USE DURING NORMAL WORKING HOURS

Definition: The percentage of time the central computer system (Sequent/Oracle) is available when needed by agency staff.

Demonstrates: Effective maintenance and repair management.

3. SAFETY: WORKERS' COMPENSATION DAYS LOST

Definition: Number of days lost due to accident/injury for SAIF claims per quarter.

Demonstrates: Effectiveness of safety programs.

4. EMPLOYEE WELLNESS: PERCENT OF SICK LEAVE USED VS. SICK LEAVE ACCRUED

Definition: Percent of sick leave used vs. sick leave accrued per quarter.

Demonstrates: Agency sick leave use - could relate to employee wellness or employee morale.

5. TRAINING: NUMBER OF HOURS OF TRAINING

Definition: Average number of hours of technical, professional, job skills and career development training provided per employee per quarter

Demonstrates: Agency commitment to providing training for employees' professional/technical/job skills/career growth

6. DIVERSITY CLIMATE: PARTICIPATION RATE IN DIVERSITY TRAINING

Definition: Percentage of DEQ staff who participate in diversity related training per quarter. (This includes core curriculum, "brown bag" programs, as well as more formal training.

Demonstrates: Enhancement of diversity climate at the agency through training.

7-9. AFFIRMATIVE ACTION: EEO/AA LEVELS VS. GOALS

Definition: Percent of affirmative action employees by minority representation, female representation at SR 22 and above, and representation of persons with disabilities compared with agency affirmative action goals

Demonstrates: Effectiveness of affirmative action plan, recruitment efforts and diversity training

ENVIRONMENTAL CLEANUP

2nd Quarter, 1993

<i>Key Measures of Performance</i>		Haz. site equivalents per FTE	Site hours vs. total hours worked	Admin hours vs. site hours worked	Severity Ranking Remedial Action sites	Severity ranking inventory sites	LUST severity rnkng. actn sites	LUST severity rank inventory sites	Costs recovered vs. total site costs
<i>Actual Results</i>		29.89	34.62	25.42	NA	NA	NA	NA	18.88
<i>Potential</i>	10	99.88	39.60	13.50					33.70
	9	94.88	38.60	14.50	0%	0%	0%	0%	31.70
	8	89.88	37.60	15.50	0%	0%	0%	0%	29.70
	7	84.88	36.60	16.50	0%	0%	0%	0%	27.70
	6	79.88	35.60	17.50	0%	0%	0%	0%	25.70
	5	74.88	34.60	18.50	0%	0%	0%	0%	23.70
	4	69.88	33.60	19.50	0%	0%	0%	0%	21.70
	3	64.88	32.60	20.50	0%	0%	0%	0%	19.70
	2	59.88	31.60	21.50	0%	0%	0%	0%	17.70
	1	54.88	30.60	22.50	0%	0%	0%	0%	15.70
<i>Baseline</i>	0	49.88	29.60	23.50					13.70
	-1	44.88	28.60	24.50	0%	0%	0%	0%	11.70
	-2	39.88	27.60	25.50	0%	0%	0%	0%	9.70
	-3	34.88	26.60	26.50	0%	0%	0%	0%	7.70
	-4	29.88	25.60	27.50	0%	0%	0%	0%	5.70
	-5	24.88	24.60	28.50	0%	0%	0%	0%	3.70
<i>Level Achieved</i>		-4.00	5.02	-1.92	ERR	ERR	ERR	ERR	2.59
<i>Relative Weight</i>		50	15	5	5	5	5	5	10
<i>Earned Value</i>		-199.90	75.30	-9.60	ERR	ERR	ERR	ERR	25.90

Performance Index =

ERR

ENVIRONMENTAL CLEANUP

1st Quarter, 1993

<i>Key Measures of Performance</i>	Haz. site equivalents per FTE	Site hours vs. total hours worked	Admin hours vs. site hours worked	Severity Ranking Remedial Action sites	Severity ranking inventory sites	LUST severity rnkg. actn sites	LUST severity rank inventory sites	Costs recovered vs. total site costs
<i>Actual Results</i>	81.35	36.69	25.38	NA	NA	NA	NA	20.23
<i>Potential</i>								
10	99.88	75.80	13.30					33.70
9	94.88	73.30	13.80	0%	0%	0%	0%	31.70
8	89.88	70.80	14.30	0%	0%	0%	0%	29.70
7	84.88	68.30	14.80	0%	0%	0%	0%	27.70
6	79.88	65.80	15.30	0%	0%	0%	0%	25.70
5	74.88	63.30	15.80	0%	0%	0%	0%	23.70
4	69.88	60.80	16.30	0%	0%	0%	0%	21.70
3	64.88	58.30	16.80	0%	0%	0%	0%	19.70
2	59.88	55.80	17.30	0%	0%	0%	0%	17.70
1	54.88	53.30	17.80	0%	0%	0%	0%	15.70
<i>Baseline</i>								
0	49.88	50.80	18.30					13.70
-1	44.88	48.30	18.80	0%	0%	0%	0%	11.70
-2	39.88	45.80	19.30	0%	0%	0%	0%	9.70
-3	34.88	43.30	19.80	0%	0%	0%	0%	7.70
-4	29.88	40.80	20.30	0%	0%	0%	0%	5.70
-5	24.88	38.30	20.80	0%	0%	0%	0%	3.70
<i>Level Achieved</i>	6.29	-5.64	-14.16	ERR	ERR	ERR	ERR	3.27
<i>Relative Weight</i>	50	15	5	5	5	5	5	10
<i>Earned Value</i>	314.70	-84.66	-70.80	ERR	ERR	ERR	ERR	32.65

Performance Index =

ERR

ENVIRONMENTAL CLEANUP

4th Quarter, 1992

<i>Key Measures of Performance</i>	Haz. site equivalents per FTE	Site hours vs. total hours worked	Admin hours vs. site hours worked	Severity Ranking Remedial Action sites	Severity ranking inventory sites	LUST severity rnkng. actn sites	LUST severity rank inventory sites	Costs recovered vs. total site costs
<i>Actual Results</i>	76.90	31.74	20.66	NA	NA	NA	NA	30.07
<i>Potential</i>	10	99.88	75.80	13.30				33.70
	9	94.88	73.30	13.80	0%	0%	0%	31.70
	8	89.88	70.80	14.30	0%	0%	0%	29.70
	7	84.88	68.30	14.80	0%	0%	0%	27.70
	6	79.88	65.80	15.30	0%	0%	0%	25.70
	5	74.88	63.30	15.80	0%	0%	0%	23.70
	4	69.88	60.80	16.30	0%	0%	0%	21.70
	3	64.88	58.30	16.80	0%	0%	0%	19.70
	2	59.88	55.80	17.30	0%	0%	0%	17.70
	1	54.88	53.30	17.80	0%	0%	0%	15.70
<i>Baseline</i>	0	49.88	50.80	18.30				13.70
	-1	44.88	48.30	18.80	0%	0%	0%	11.70
	-2	39.88	45.80	19.30	0%	0%	0%	9.70
	-3	34.88	43.30	19.80	0%	0%	0%	7.70
	-4	29.88	40.80	20.30	0%	0%	0%	5.70
	-5	24.88	38.30	20.80	0%	0%	0%	3.70
<i>Level Achieved</i>	5.40	-7.62	-4.72	ERR	ERR	ERR	ERR	8.19
<i>Relative Weight</i>	50	15	5	5	5	5	5	10
<i>Earned Value</i>	270.20	-114.36	-23.60	ERR	ERR	ERR	ERR	81.85

Performance Index = ERR

ENVIRONMENTAL CLEANUP

3rd Quarter, 1992

<i>Key Measures of Performance</i>	Haz. site equivalents per FTE	Site hours vs. total hours worked	Admin hours vs. site hours worked	Severity Ranking Remedial Action sites	Severity ranking inventory sites	LUST severity rnkng. actn sites	LUST severity rank inventory sites	Costs recovered vs. total site costs
<i>Actual Results</i>	72.91	38.32	19.66	NA	NA	NA	NA	32.34
<i>Potential</i>	10	99.88	75.80	13.30				33.70
	9	94.88	73.30	13.80	0%	0%	0%	31.70
	8	89.88	70.80	14.30	0%	0%	0%	29.70
	7	84.88	68.30	14.80	0%	0%	0%	27.70
	6	79.88	65.80	15.30	0%	0%	0%	25.70
	5	74.88	63.30	15.80	0%	0%	0%	23.70
	4	69.88	60.80	16.30	0%	0%	0%	21.70
	3	64.88	58.30	16.80	0%	0%	0%	19.70
	2	59.88	55.80	17.30	0%	0%	0%	17.70
	1	54.88	53.30	17.80	0%	0%	0%	15.70
<i>Baseline</i>	0	49.88	50.80	18.30				13.70
	-1	44.88	48.30	18.80	0%	0%	0%	11.70
	-2	39.88	45.80	19.30	0%	0%	0%	9.70
	-3	34.88	43.30	19.80	0%	0%	0%	7.70
	-4	29.88	40.80	20.30	0%	0%	0%	5.70
	-5	24.88	38.30	20.80	0%	0%	0%	3.70
<i>Level Achieved</i>	4.61	-4.99	-2.72	ERR	ERR	ERR	ERR	9.32
<i>Relative Weight</i>	50	15	5	5	5	5	5	10
<i>Earned Value</i>	230.30	-74.88	-13.60	ERR	ERR	ERR	ERR	93.20

Performance Index =

ERR

ENVIRONMENTAL CLEANUP

2nd Quarter 1992

<i>Key Measures of Performance</i>	Haz. site equivalents per FTE	Site hours vs. total hours worked	Admin hours vs. site hours worked	Severity Ranking Remedial Action sites	Severity ranking inventory sites	LUST severity rnkg. actn sites	LUST severity rank inventory sites	Costs recovered vs. total site costs
<i>Actual Results</i>	68.91	46.40	15.00	NA	NA	NA	NA	26.25
<i>Potential</i>	10	99.88	75.30	13.30				33.70
	9	94.88	73.30	13.80	0%	0%	0%	31.70
	8	89.88	70.80	14.30	0%	0%	0%	29.70
	7	84.88	68.30	14.80	0%	0%	0%	27.70
	6	79.88	65.80	15.30	0%	0%	0%	25.70
	5	74.88	63.30	15.80	0%	0%	0%	23.70
	4	69.88	60.80	16.30	0%	0%	0%	21.70
	3	64.88	58.30	16.80	0%	0%	0%	19.70
	2	59.88	55.80	17.30	0%	0%	0%	17.70
	1	54.88	53.30	17.80	0%	0%	0%	15.70
<i>Baseline</i>	0	49.88	50.80	18.30				13.70
	1	44.88	48.30	18.80	0%	0%	0%	11.70
	2	39.88	45.80	19.30	0%	0%	0%	9.70
	3	34.88	43.30	19.80	0%	0%	0%	7.70
	4	29.88	40.80	20.30	0%	0%	0%	5.70
	5	24.88	38.30	20.80	0%	0%	0%	3.70
<i>Level Achieved</i>	3.81	-1.76	6.60	ERR	ERR	ERR	ERR	6.28
<i>Relative Weight</i>	50	15	5	5	5	5	5	10
<i>Earned Value</i>	190.30	-26.40	33.00	ERR	ERR	ERR	ERR	62.75

Performance Index = ERR

WATER QUALITY

1st Quarter, 1993

<i>Key Measures of Performance</i>		River miles beneficial use protect/FTE	Acres of LEW's protect/FTE	Sq. miles aquifers protect/FTE	% of River miles assessed	% LEWS assessed	% Aquifer assessed	Muni. poll. proj. equiv per FTE	% of muni. admin & activ. deadlines	Sewer. facilities that fail meet limits	Percent of permits timely
<i>Actual Results</i>		536.0	60,256	135.90	32.00%	72.00%	9.00%	144	81.0%	0.00%	80%
<i>Potential</i>	10	553.0	60,879	184.60	33.00%	74.00%	10.00%	175	100.0%	0.00%	100%
	9	551.1	60,780	179.64	32.80%	73.60%	9.90%	168	98.0%	0.50%	92%
	8	549.2	60,681	174.68	32.60%	73.20%	9.80%	160	96.0%	1.00%	84%
	7	547.3	60,582	169.72	32.40%	72.80%	9.70%	153	94.0%	1.50%	76%
	6	545.4	60,483	164.76	32.20%	72.40%	9.60%	145	92.0%	2.00%	68%
	5	543.5	60,384	159.80	32.00%	72.00%	9.50%	138	90.0%	2.50%	60%
	4	541.6	60,284	154.84	31.80%	71.60%	9.40%	130	88.0%	3.00%	52%
	3	539.7	60,185	149.88	31.60%	71.20%	9.30%	123	86.0%	3.50%	44%
	2	537.8	60,086	144.92	31.40%	70.80%	9.20%	115	84.0%	4.00%	36%
	1	535.9	59,987	139.96	31.20%	70.40%	9.10%	108	82.0%	4.50%	28%
<i>Baseline</i>	0	534.0	59,888	135.00	31.00%	70.00%	9.00%	100	80.0%	5.00%	20%
	1	532.1	59,789	130.04	30.80%	69.60%	8.90%	93	78.0%	5.50%	12%
	2	530.2	59,690	125.08	30.60%	69.20%	8.80%	85	76.0%	6.00%	4%
	3	528.3	59,591	120.12	30.40%	68.80%	8.70%	78	74.0%	6.50%	-4%
	4	526.4	59,492	115.16	30.20%	68.40%	8.60%	70	72.0%	7.00%	-12%
	5	524.5	59,393	110.20	30.00%	68.00%	8.50%	63	70.0%	7.50%	-20%
<i>Level Achieved</i>		1.05	3.71	0.18	5.00	5.00	0.00	5.87	0.50	10.00	7.50
<i>Relative Weight</i>		15	4	7	10	2	5	11	8	19	19
<i>Earned Value</i>		15.79	14.85	1.27	50.00	10.00	0.00	64.53	4.00	190.00	142.50

Performance Index = 492.95

WATER QUALITY

4th Quarter, 1992

<i>Key Measures of Performance</i>		River miles beneficial use protect/FTE	Acres of LEW's protect/FTE	Sq. miles aquifers protect/FTE	% of River miles assessed	% LEWS assessed	% Aquifer assessed	Muni. poll. proj. equiv per FTE	% of muni. admin & activ. deadlines	Sewer. facilities that fail meet limits	Percent of permits timely
<i>Actual Results</i>		536.0	60,256	135.90	32.00%	72.00%	9.00%	120	80.0%	0.00%	41%
<i>Potential</i>	10	553.0	60,879	184.60	33.00%	74.00%	10.00%	175	100.0%	0.00%	100%
	9	551.1	60,780	179.64	32.80%	73.60%	9.90%	168	98.0%	0.50%	92%
	8	549.2	60,681	174.68	32.60%	73.20%	9.80%	160	96.0%	1.00%	84%
	7	547.3	60,582	169.72	32.40%	72.80%	9.70%	153	94.0%	1.50%	76%
	6	545.4	60,483	164.76	32.20%	72.40%	9.60%	145	92.0%	2.00%	68%
	5	543.5	60,384	159.80	32.00%	72.00%	9.50%	138	90.0%	2.50%	60%
	4	541.6	60,284	154.84	31.80%	71.60%	9.40%	130	88.0%	3.00%	52%
	3	539.7	60,185	149.88	31.60%	71.20%	9.30%	123	86.0%	3.50%	44%
	2	537.8	60,086	144.92	31.40%	70.80%	9.20%	115	84.0%	4.00%	36%
	1	535.9	59,987	139.96	31.20%	70.40%	9.10%	108	82.0%	4.50%	28%
<i>Baseline</i>	0	534.0	59,888	135.00	31.00%	70.00%	9.00%	100	80.0%	5.00%	20%
	1	532.1	59,789	130.04	30.80%	69.60%	8.90%	93	78.0%	5.50%	12%
	2	530.2	59,690	125.08	30.60%	69.20%	8.80%	85	76.0%	6.00%	4%
	3	528.3	59,591	120.12	30.40%	68.80%	8.70%	78	74.0%	6.50%	-4%
	4	526.4	59,492	115.16	30.20%	68.40%	8.60%	70	72.0%	7.00%	-12%
	5	524.5	59,393	110.20	30.00%	68.00%	8.50%	63	70.0%	7.50%	-20%
<i>Level Achieved</i>		1.05	3.71	0.18	5.00	5.00	0.00	2.67	0.00	10.00	2.62
<i>Relative Weight</i>		15	4	7	10	2	5	11	8	19	19
<i>Earned Value</i>		15.79	14.85	1.27	50.00	10.00	0.00	29.33	0.00	190.00	49.87

Performance Index = 361.12

WATER QUALITY

3rd Quarter, 1992

<i>Key Measures of Performance</i>		River miles beneficial use protect/FTE	Acres of LEW's protect/FTE	Sq. miles aquifers protect/FTE	% of River miles assessed	% LEWS assessed	% Aquifer assessed	Muni. poll. proj. equiv per FTE	% of muni. admin & activ. deadlines	Sewer. facilities that fail meet limits	Percent of permits timely
<i>Actual Results</i>		536.0	60,256	135.90	32.00%	72.00%	9.00%	150	82.0%	0.00%	46%
<i>Potential</i>	10	553.0	60,879	184.60	33.00%	74.00%	10.00%	175	100.0%	0.00%	100%
	9	551.1	60,780	179.64	32.80%	73.60%	9.90%	168	98.0%	0.50%	92%
	8	549.2	60,681	174.68	32.60%	73.20%	9.80%	160	96.0%	1.00%	84%
	7	547.3	60,582	169.72	32.40%	72.80%	9.70%	153	94.0%	1.50%	76%
	6	545.4	60,483	164.76	32.20%	72.40%	9.60%	145	92.0%	2.00%	68%
	5	543.5	60,384	159.80	32.00%	72.00%	9.50%	138	90.0%	2.50%	60%
	4	541.6	60,284	154.84	31.80%	71.60%	9.40%	130	88.0%	3.00%	52%
	3	539.7	60,185	149.88	31.60%	71.20%	9.30%	123	86.0%	3.50%	44%
	2	537.8	60,086	144.92	31.40%	70.80%	9.20%	115	84.0%	4.00%	36%
	1	535.9	59,987	139.96	31.20%	70.40%	9.10%	108	82.0%	4.50%	28%
<i>Baseline</i>	0	534.0	59,888	135.00	31.00%	70.00%	9.00%	100	80.0%	5.00%	20%
	1	532.1	59,789	130.04	30.80%	69.60%	8.90%	93	78.0%	5.50%	12%
	2	530.2	59,690	125.08	30.60%	69.20%	8.80%	85	76.0%	6.00%	4%
	3	528.3	59,591	120.12	30.40%	68.80%	8.70%	78	74.0%	6.50%	-4%
	4	526.4	59,492	115.16	30.20%	68.40%	8.60%	70	72.0%	7.00%	-12%
	5	524.5	59,393	110.20	30.00%	68.00%	8.50%	63	70.0%	7.50%	-20%
<i>Level Achieved</i>		1.05	3.71	0.18	5.00	5.00	0.00	6.67	1.00	10.00	3.25
<i>Relative Weight</i>		15	4	7	10	2	5	11	8	19	19
<i>Earned Value</i>		15.79	14.85	1.27	50.00	10.00	0.00	73.33	8.00	190.00	61.75

Performance Index = 425.00

WATER QUALITY

2nd Quarter, 1992

<i>Key Measures of Performance</i>		River miles beneficial use protect/FTE	Acres of LEW's protect/FTE	Sq. miles aquifers protect/FTE	% of River miles assessed	% LEWS assessed	% Aquifer assessed	Muni. poll. proj. equiv per FTE	% of muni. admin & activ. deadlines	Sewer. facilities that fail meet limits	Percent of permits timely
<i>Actual Results</i>		536.0	60,256	135.90	32.00%	72.00%	9.00%	150	82.0%	0.00%	47%
<i>Potential</i>	10	553.0	60,879	184.60	33.00%	74.00%	10.00%	175	100.0%	0.00%	100%
	9	551.1	60,780	179.64	32.80%	73.60%	9.90%	168	98.0%	0.50%	92%
	8	549.2	60,681	174.68	32.60%	73.20%	9.80%	160	96.0%	1.00%	84%
	7	547.3	60,582	169.72	32.40%	72.80%	9.70%	153	94.0%	1.50%	76%
	6	545.4	60,483	164.76	32.20%	72.40%	9.60%	145	92.0%	2.00%	68%
	5	543.5	60,384	159.80	32.00%	72.00%	9.50%	138	90.0%	2.50%	60%
	4	541.6	60,284	154.84	31.80%	71.60%	9.40%	130	88.0%	3.00%	52%
	3	539.7	60,185	149.88	31.60%	71.20%	9.30%	123	86.0%	3.50%	44%
	2	537.8	60,086	144.92	31.40%	70.80%	9.20%	115	84.0%	4.00%	36%
	1	535.9	59,987	139.96	31.20%	70.40%	9.10%	108	82.0%	4.50%	28%
<i>Baseline</i>	0	534.0	59,888	135.00	31.00%	70.00%	9.00%	100	80.0%	5.00%	20%
	-1	532.1	59,789	130.04	30.80%	69.60%	8.90%	93	78.0%	5.50%	12%
	-2	530.2	59,690	125.08	30.60%	69.20%	8.80%	85	76.0%	6.00%	4%
	-3	528.3	59,591	120.12	30.40%	68.80%	8.70%	78	74.0%	6.50%	-4%
	-4	526.4	59,492	115.16	30.20%	68.40%	8.60%	70	72.0%	7.00%	-12%
	-5	524.5	59,393	110.20	30.00%	68.00%	8.50%	63	70.0%	7.50%	-20%
<i>Level Achieved</i>		1.05	3.71	0.18	5.00	5.00	0.00	6.67	1.00	10.00	3.37
<i>Relative Weight</i>		15	4	7	10	2	5	11	8	19	19
<i>Earned Value</i>		15.79	14.85	1.27	50.00	10.00	0.00	73.33	8.00	190.00	64.12

Performance Index = 427.37

HAZARDOUS AND SOLID WASTE

2nd quarter, 1993

<i>Key Measures of Performance</i>	# of SW TA contact hours/fte	# of HW inspect. per FTE per quarter	Pounds/capita of OR munic. SW disposed annually st	% of reg. comm. with UST that meet technical standards	Amount of HW managed according to hierarchy	% of SW managed according to hierarchy	Monthly average turnaround time on permit actions
<i>Actual Results</i>	60.00	4.80	NA	13%	NA	NA	6.07
<i>Potential</i>	10	100.00	7.00	1000	90%	97.63	5.00
	9	92.52	6.65	1081	82%	98.24	5.28
	8	85.04	6.31	1163	73%	98.85	5.55
	7	77.56	5.96	1244	65%	99.47	5.83
	6	70.08	5.61	1326	56%	100.08	6.10
	5	62.60	5.27	1407	48%	100.69	6.38
	4	55.12	4.92	1488	39%	101.30	6.65
	3	47.64	4.57	1570	31%	101.91	6.93
	2	40.16	4.22	1651	22%	102.53	7.20
	1	32.68	3.88	1733	14%	103.14	7.48
<i>Baseline</i>	0	25.20	3.53	1814	5%	103.75	7.75
	-1	17.72	3.18	1895	-4%	104.36	8.03
	-2	10.24	2.84	1977	-12%	104.97	8.30
	-3	2.76	2.49	2058	-21%	105.59	8.58
	-4	-4.72	2.14	2140	-29%	106.20	8.85
	-5	-12.20	1.79	2221	-38%	106.81	9.13
<i>Level Achieved</i>	4.65	3.66	22.29	0.98	169.53	ERR	6.11
<i>Relative Weight</i>	10	10	15	15	20	15	15
<i>Earned Value</i>	46.52	36.60	334.28	14.65	3390.52	ERR	91.64

Performance Index =

ERR

HAZARDOUS AND SOLID WASTE

1st quarter, 1993

<i>Key Measures of Performance</i>	# of SW TA contact hours/fte	# of HW inspect. per FTE per quarter	Pounds/capita of OR munic. SW disposed annually st	% of reg. comm. with UST that meet technical standards	Amount of HW managed according to hierarchy	% of SW managed according to hierarchy	Monthly average turnaround time on permit actions	
<i>Actual Results</i>	73.00	2.82	NA	9%	NA	NA	6.67	
<i>Potential</i>	10	100.00	7.00	1000	90%	97.63	0.00%	5.00
	9	92.52	6.65	1081	82%	98.24	0.00%	5.28
	8	85.04	6.31	1163	73%	98.85	0.00%	5.55
	7	77.56	5.96	1244	65%	99.47	0.00%	5.83
	6	70.08	5.61	1326	56%	100.08	0.00%	6.10
	5	62.60	5.27	1407	48%	100.69	0.00%	6.38
	4	55.12	4.92	1488	39%	101.30	0.00%	6.65
	3	47.64	4.57	1570	31%	101.91	0.00%	6.93
	2	40.16	4.22	1651	22%	102.53	0.00%	7.20
	1	32.68	3.88	1733	14%	103.14	0.00%	7.48
<i>Baseline</i>	0	25.20	3.53	1814	5%	103.75	0.00%	7.75
	-1	17.72	3.18	1895	-4%	104.36	0.00%	8.03
	-2	10.24	2.84	1977	-12%	104.97	0.00%	8.30
	-3	2.76	2.49	2058	-21%	105.59	0.00%	8.58
	-4	-4.72	2.14	2140	-29%	106.20	0.00%	8.85
	-5	-12.20	1.79	2221	-38%	106.81	0.00%	9.13
<i>Level Achieved</i>	6.39	-2.05	22.29	0.46	169.53	ERR	3.93	
<i>Relative Weight</i>	10	10	15	15	20	15	15	
<i>Earned Value</i>	63.90	-20.46	334.28	6.88	3390.52	ERR	58.91	

Performance Index =

ERR

HAZARDOUS AND SOLID WASTE

4th quarter, 1992

<i>Key Measures of Performance</i>	# of SW TA contact hours/fte	# of HW inspect. per FTE per quarter	Pounds/capita of OR munic. SW disposed annually st	% of reg. comm. with UST that meet technical standards	Amount of HW managed according to hierarchy	% of SW managed according to hierarchy	Monthly average turnaround time on permit actions	
<i>Actual Results</i>	64.00	4.35	NA	9%	0.00	0.00%	7.27	
<i>Potential</i>	10	100.00	7.00	1000	90%	98.00	0.00%	5.00
	9	92.52	6.65	1081	82%	98.60	0.00%	5.28
	8	85.04	6.31	1163	73%	99.20	0.00%	5.55
	7	77.56	5.96	1244	65%	99.80	0.00%	5.83
	6	70.08	5.61	1326	56%	100.40	0.00%	6.10
	5	62.60	5.27	1407	48%	101.00	0.00%	6.38
	4	55.12	4.92	1488	39%	101.60	0.00%	6.65
	3	47.64	4.57	1570	31%	102.20	0.00%	6.93
	2	40.16	4.22	1651	22%	102.80	0.00%	7.20
	1	32.68	3.88	1733	14%	103.40	0.00%	7.48
<i>Baseline</i>	0	25.20	3.53	1814	5%	104.00	0.00%	7.75
	-1	17.72	3.18	1895	-4%	104.60	0.00%	8.03
	-2	10.24	2.84	1977	-12%	105.20	0.00%	8.30
	-3	2.76	2.49	2058	-21%	105.80	0.00%	8.58
	-4	-4.72	2.14	2140	-29%	106.40	0.00%	8.85
	-5	-12.20	1.79	2221	-38%	107.00	0.00%	9.13
<i>Level Achieved</i>	5.19	2.36	22.29	0.46	173.33	ERR	1.75	
<i>Relative Weight</i>	10	10	15	15	20	15	15	
<i>Earned Value</i>	51.87	23.63	334.28	6.88	3466.67	ERR	26.18	

Performance Index =

ERR

HAZARDOUS AND SOLID WASTE

3rd quarter, 1992

<i>Key Measures of Performance</i>		# of SW TA contact hours/fte	# of HW inspect. per FTE per quarter	Pounds/capita of OR munic. SW disposed annually st	% of reg. comm. with UST that meet technical standards	% of HW managed according to hierarchy	% of SW managed according to hierarchy	Monthly average turnaround time on permit actions
<i>Actual Results</i>		75.50	2.21	NA	9%	0.00%	0.00%	7.42
<i>Potential</i>	10	50.00	7.00	1000	90%	0.00%	0.00%	5.00
	9	47.52	6.65	1081	82%	0.00%	0.00%	5.28
	8	45.04	6.31	1163	73%	0.00%	0.00%	5.55
	7	42.56	5.96	1244	65%	0.00%	0.00%	5.83
	6	40.08	5.61	1326	56%	0.00%	0.00%	6.10
	5	37.60	5.27	1407	48%	0.00%	0.00%	6.38
	4	35.12	4.92	1488	39%	0.00%	0.00%	6.65
	3	32.64	4.57	1570	31%	0.00%	0.00%	6.93
	2	30.16	4.22	1651	22%	0.00%	0.00%	7.20
	1	27.68	3.88	1733	14%	0.00%	0.00%	7.48
<i>Baseline</i>	0	25.20	3.53	1814	5%	0.00%	0.00%	7.75
	-1	22.72	3.18	1895	-4%	0.00%	0.00%	8.03
	-2	20.24	2.84	1977	-12%	0.00%	0.00%	8.30
	-3	17.76	2.49	2058	-21%	0.00%	0.00%	8.58
	-4	15.28	2.14	2140	-29%	0.00%	0.00%	8.85
	-5	12.80	1.79	2221	-38%	0.00%	0.00%	9.13
<i>Level Achieved</i>		20.28	-3.80	22.29	0.46	ERR	ERR	1.20
<i>Relative Weight</i>		10	10	15	15	20	15	15
<i>Earned Value</i>		202.82	-38.04	334.28	6.88	ERR	ERR	18.00

Performance Index = ERR

HAZARDOUS AND SOLID WASTE

2nd quarter, 1992

<i>Key Measures of Performance</i>		# of SW TA contact hours/fte	# of HW inspect. per FTE per quarter	Pounds/capita of OR munic. SW disposed annually st	% of reg. comm. with UST that meet technical standards	% of HW managed according to hierarchy	% of SW managed according to hierarchy	Monthly average turnaround time on permit actions
<i>Actual Results</i>		74.70	3.53	NA	9%	0.00%	0.00%	7.69
<i>Potential</i>	10	50.00	7.00	1000	90%	0.00%	0.00%	5.00
	9	47.52	6.65	1081	82%	0.00%	0.00%	5.28
	8	45.04	6.31	1163	73%	0.00%	0.00%	5.55
	7	42.56	5.96	1244	65%	0.00%	0.00%	5.83
	6	40.08	5.61	1326	56%	0.00%	0.00%	6.10
	5	37.60	5.27	1407	48%	0.00%	0.00%	6.38
	4	35.12	4.92	1488	39%	0.00%	0.00%	6.65
	3	32.64	4.57	1570	31%	0.00%	0.00%	6.93
	2	30.16	4.22	1651	22%	0.00%	0.00%	7.20
	1	27.68	3.88	1733	14%	0.00%	0.00%	7.48
<i>Baseline</i>	0	25.20	3.53	1814	5%	0.00%	0.00%	7.75
	-1	22.72	3.18	1895	-4%	0.00%	0.00%	8.03
	-2	20.24	2.84	1977	-12%	0.00%	0.00%	8.30
	-3	17.76	2.49	2058	-21%	0.00%	0.00%	8.58
	-4	15.28	2.14	2140	-29%	0.00%	0.00%	8.85
	-5	12.80	1.79	2221	-38%	0.00%	0.00%	9.13
<i>Level Achieved</i>		19.96	0.00	22.29	0.46	ERR	ERR	0.22
<i>Relative Weight</i>		10	10	15	15	20	15	15
<i>Earned Value</i>		199.60	0.00	334.28	6.88	ERR	ERR	3.27

Performance Index =

ERR

AIR QUALITY

1st Quarter, 1993

<i>Key Measures of Performance</i>	Air pollution exposure index	Air Pollution Index	Adherence to Fed. Submittal deadlines	Vehicle Inspection time	# Vehicles inspected per FTE/month	Permit Processing Time	Number of permitted sources/FTE	
<i>Actual Results</i>	0.095	49.20	100%	135.00	1058	54%	40.85	
<i>Potential</i>	10	0.000	40.00	100%	45.00	1100	70%	50.00
	9	0.079	41.49	99%	46.70	1083	69%	49.29
	8	0.157	42.98	98%	48.40	1066	67%	48.58
	7	0.236	44.47	97%	50.10	1049	66%	47.87
	6	0.314	45.96	96%	51.80	1032	65%	47.16
	5	0.393	47.45	95%	53.50	1015	64%	46.45
	4	0.472	48.94	94%	55.20	998	62%	45.74
	3	0.550	50.43	93%	56.90	981	61%	45.03
	2	0.629	51.92	92%	58.60	964	60%	44.32
	1	0.707	53.41	91%	60.30	947	58%	43.61
<i>Baseline</i>	0	0.786	54.90	90%	62.00	930	57%	42.90
	1	0.865	56.39	89%	63.70	913	56%	42.19
	2	0.943	57.88	88%	65.40	896	54%	41.48
	3	1.022	59.37	87%	67.10	879	53%	40.77
	4	1.100	60.86	86%	68.80	862	52%	40.06
	5	1.179	62.35	85%	70.50	845	51%	39.35
<i>Level Achieved</i>	8.79	3.83	10.00	-42.94	8	-2.31	-2.89	
<i>Relative Weight</i>	27	20	12	5	5	16	15	
<i>Earned Value</i>	237.37	76.51	120.00	-214.71	37.65	-36.92	-43.31	

Performance Index = 176.58

AIR QUALITY

4th Quarter, 1992

<i>Key Measures of Performance</i>	Air pollution exposure index	Air Pollution Index	Adherence to Fed. Submittal deadlines	Vehicle Inspection time	# Vehicles inspected per FTE/month	Permit Processing Time	Number of permitted sources/FTE	
<i>Actual Results</i>	0.094	49.80	100%	62.00	916	57%	38.7	
<i>Potential</i>	10	0.000	40.00	100%	45.00	1100	70%	50.00
	9	0.079	41.49	99%	46.70	1083	69%	49.29
	8	0.157	42.98	98%	48.40	1066	67%	48.58
	7	0.236	44.47	97%	50.10	1049	66%	47.87
	6	0.314	45.96	96%	51.80	1032	65%	47.16
	5	0.393	47.45	95%	53.50	1015	64%	46.45
	4	0.472	48.94	94%	55.20	998	62%	45.74
	3	0.550	50.43	93%	56.90	981	61%	45.03
	2	0.629	51.92	92%	58.60	964	60%	44.32
	1	0.707	53.41	91%	60.30	947	58%	43.61
<i>Baseline</i>	0	0.786	54.90	90%	62.00	930	57%	42.90
	-1	0.865	56.39	89%	63.70	913	56%	42.19
	-2	0.943	57.88	88%	65.40	896	54%	41.48
	-3	1.022	59.37	87%	67.10	879	53%	40.77
	-4	1.100	60.86	86%	68.80	862	52%	40.06
	-5	1.179	62.35	85%	70.50	845	51%	39.35
<i>Level Achieved</i>	8.80	3.42	10.00	0.00	-1	0.23	-5.92	
<i>Relative Weight</i>	27	20	12	5	5	16	15	
<i>Earned Value</i>	237.71	68.46	120.00	0.00	-4.12	3.69	-88.73	

Performance Index =

337.01

AIR QUALITY

3rd Quarter, 1992

<i>Key Measures of Performance</i>	Air pollution exposure index	Air Pollution Index	Adherence to Fed. Submittal deadlines	Vehicle Inspection time	# Vehicles inspected per FTE/month	Permit Processing Time	Number of permitted sources/FTE	
<i>Actual Results</i>	0.099	53.00	100%	NA	NA	53%	36.54	
<i>Potential</i>								
	10	0.000	40.00	100%	0.12	810	70%	50.00
	9	0.079	41.49	99%	0.13	803	69%	49.29
	8	0.157	42.98	98%	0.13	797	67%	48.58
	7	0.236	44.47	97%	0.14	790	66%	47.87
	6	0.314	45.96	96%	0.14	784	65%	47.16
	5	0.393	47.45	95%	0.15	777	64%	46.45
	4	0.472	48.94	94%	0.16	770	62%	45.74
	3	0.550	50.43	93%	0.16	764	61%	45.03
	2	0.629	51.92	92%	0.17	757	60%	44.32
	1	0.707	53.41	91%	0.17	751	58%	43.61
<i>Baseline</i>								
	0	0.786	54.90	90%	0.18	744	57%	42.90
	1	0.865	56.39	89%	0.19	737	56%	42.19
	2	0.943	57.88	88%	0.19	731	54%	41.48
	3	1.022	59.37	87%	0.20	724	53%	40.77
	4	1.100	60.86	86%	0.20	718	52%	40.06
	5	1.179	62.35	85%	0.21	711	51%	39.35
<i>Level Achieved</i>	8.74	1.28	10.00	30.00	-113	-3.08	-8.96	
<i>Relative Weight</i>	27	20	12	5	5	16	15	
<i>Earned Value</i>	235.99	25.50	120.00	150.00	-563.64	-49.23	-134.37	

Performance Index = -215.74

AIR QUALITY

2nd Quarter, 1992

<i>Key Measures of Performance</i>	Air pollution exposure index	Air Pollution Index	Adherence to Fed. Submittal deadlines	Vehicle Inspection time	# Vehicles inspected per FTE/month	Permit Processing Time	Number of permitted sources/FTE	
<i>Actual Results</i>	0.107	53.00	100%	NA	NA	58%	47.9	
<i>Potential</i>	10	0.000	40.00	100%	0.12	810	70%	50.00
	9	0.079	41.49	99%	0.13	803	69%	49.29
	8	0.157	42.98	98%	0.13	797	67%	48.58
	7	0.236	44.47	97%	0.14	790	66%	47.87
	6	0.314	45.96	96%	0.14	784	65%	47.16
	5	0.393	47.45	95%	0.15	777	64%	46.45
	4	0.472	48.94	94%	0.16	770	62%	45.74
	3	0.550	50.43	93%	0.16	764	61%	45.03
	2	0.629	51.92	92%	0.17	757	60%	44.32
	1	0.707	53.41	91%	0.17	751	58%	43.61
<i>Baseline</i>	0	0.786	54.90	90%	0.18	744	57%	42.90
	1	0.865	56.39	89%	0.19	737	56%	42.19
	2	0.943	57.88	88%	0.19	731	54%	41.48
	3	1.022	59.37	87%	0.20	724	53%	40.77
	4	1.100	60.86	86%	0.20	718	52%	40.06
	5	1.179	62.35	85%	0.21	711	51%	39.35
<i>Level Achieved</i>	8.64	1.28	10.00	30.00	-113	0.77	7.04	
<i>Relative Weight</i>	27	20	12	5	5	16	15	
<i>Earned Value</i>	233.24	25.50	120.00	150.00	-563.64	12.31	105.63	

Performance Index = 83.05

AGENCY-WIDE

1st Quarter, 1993

Key Measures of Performance		% of time spent by I.S. for funding division	% of time Sequent/Oracle up during work	Number of Days lost work comp	Wellness: % sick leave used vs. accrued	Hours of training per employee/qtr	Hours of diversity train/empl	EEO		Disability
								Female rep. above SR 22	Minority represent.	
<i>Actual Results</i>		79.5%	98.36%	0	79%	4.36	NA	30.50%	6.70%	2.90%
<i>Potential</i>	10	100.0%	100.00%	0	35%	5.00		30.00%	9.50%	4.30%
	9	97.0%	99.50%	2	37%	4.88	0.00	29.89%	9.44%	4.21%
	8	94.0%	99.00%	5	39%	4.77	0.00	29.78%	9.38%	4.12%
	7	91.0%	98.50%	7	41%	4.65	0.00	29.67%	9.32%	4.03%
	6	88.0%	98.00%	9	43%	4.53	0.00	29.56%	9.26%	3.94%
	5	85.0%	97.50%	12	45%	4.42	0.00	29.45%	9.20%	3.85%
	4	82.0%	97.00%	14	47%	4.30	0.00	29.34%	9.14%	3.76%
	3	79.0%	96.50%	16	49%	4.18	0.00	29.23%	9.08%	3.67%
	2	76.0%	96.00%	18	51%	4.06	0.00	29.12%	9.02%	3.58%
	1	73.0%	95.50%	21	53%	3.95	0.00	29.01%	8.96%	3.49%
<i>Baseline</i>	0	70.0%	95.00%	23	55%	3.83		28.90%	8.90%	3.40%
	1	67.0%	94.50%	25	57%	3.71	0.00	28.79%	8.84%	3.31%
	2	64.0%	94.00%	28	59%	3.60	0.00	28.68%	8.78%	3.22%
	3	61.0%	93.50%	30	61%	3.48	0.00	28.57%	8.72%	3.13%
	4	58.0%	93.00%	32	63%	3.36	0.00	28.46%	8.66%	3.04%
	5	55.0%	92.50%	35	65%	3.25	0.00	28.35%	8.60%	2.95%
<i>Level Achieved</i>		3.15	6.72	10.00	-12.00	4.53	ERR	14.55	-36.67	-5.56
<i>Relative Weight</i>		5	5	12	10	10	14.5	14.5	14.5	14.5
<i>Earned Value</i>		15.75	33.60	120.00	-120.00	45.30	ERR	210.91	-531.67	-80.56

Performance Index =

ERR

AGENCY-WIDE

4th Quarter, 1992

Key Measures of Performance		% of time spent by I.S. for funding division	% of time Sequent/Oracle up during work	Number of Days lost work comp	Wellness: % sick leave used vs. accrued	Hours of training per employee/qtr	Hours of diversity train/empl	EEO		
								Female rep. above SR 22	Minority represent.	Disability
<i>Actual Results</i>		79.5%	98.36%	39	71%	7.70	NA	31.50%	6.70%	3.20%
<i>Potential</i>	10	100.0%	100.00%	0	35%	5.00		30.00%	9.50%	4.30%
	9	97.0%	99.50%	2	37%	4.88	0.00	29.89%	9.44%	4.21%
	8	94.0%	99.00%	5	39%	4.77	0.00	29.78%	9.38%	4.12%
	7	91.0%	98.50%	7	41%	4.65	0.00	29.67%	9.32%	4.03%
	6	88.0%	98.00%	9	43%	4.53	0.00	29.56%	9.26%	3.94%
	5	85.0%	97.50%	12	45%	4.42	0.00	29.45%	9.20%	3.85%
	4	82.0%	97.00%	14	47%	4.30	0.00	29.34%	9.14%	3.76%
	3	79.0%	96.50%	16	49%	4.18	0.00	29.23%	9.08%	3.67%
	2	76.0%	96.00%	18	51%	4.06	0.00	29.12%	9.02%	3.58%
	1	73.0%	95.50%	21	53%	3.95	0.00	29.01%	8.96%	3.49%
<i>Baseline</i>	0	70.0%	95.00%	23	55%	3.83		28.90%	8.90%	3.40%
	-1	67.0%	94.50%	25	57%	3.71	0.00	28.79%	8.84%	3.31%
	-2	64.0%	94.00%	28	59%	3.60	0.00	28.68%	8.78%	3.22%
	-3	61.0%	93.50%	30	61%	3.48	0.00	28.57%	8.72%	3.13%
	-4	58.0%	93.00%	32	63%	3.36	0.00	28.46%	8.66%	3.04%
	-5	55.0%	92.50%	35	65%	3.25	0.00	28.35%	8.60%	2.95%
<i>Level Achieved</i>		3.15	6.72	-6.96	-8.00	33.08	ERR	23.64	-36.67	-2.22
<i>Relative Weight</i>		5	5	12	10	10	14.5	14.5	14.5	14.5
<i>Earned Value</i>		15.75	33.60	-83.48	-80.00	330.77	ERR	342.73	-531.67	-32.22

Performance Index = ERR

AGENCY-WIDE

3rd Quarter, 1992

Key Measures of Performance		% of time spent by I.S. for funding division	% of time Sequent/Oracle up during work	Number of Days lost work comp	Wellness: % sick leave used vs. accrued	Hours of training per employee/qtr	Hours of diversity train/empl	EEO		
								Female rep. above SR 22	Minority represent.	Disability
<i>Actual Results</i>		76.5%	99.52%	0	59%	6.50	NA	29.70%	7.30%	3.60%
<i>Potential</i>	10	100.0%	100.00%	0	35%	5.00		30.00%	9.50%	4.30%
	9	97.0%	99.50%	2	37%	4.88	0.00	29.89%	9.44%	4.21%
	8	94.0%	99.00%	5	39%	4.77	0.00	29.78%	9.38%	4.12%
	7	91.0%	98.50%	7	41%	4.65	0.00	29.67%	9.32%	4.03%
	6	88.0%	98.00%	9	43%	4.53	0.00	29.56%	9.26%	3.94%
	5	85.0%	97.50%	12	45%	4.42	0.00	29.45%	9.20%	3.85%
	4	82.0%	97.00%	14	47%	4.30	0.00	29.34%	9.14%	3.76%
	3	79.0%	96.50%	16	49%	4.18	0.00	29.23%	9.08%	3.67%
	2	76.0%	96.00%	18	51%	4.06	0.00	29.12%	9.02%	3.58%
	1	73.0%	95.50%	21	53%	3.95	0.00	29.01%	8.96%	3.49%
<i>Baseline</i>	0	70.0%	95.00%	23	55%	3.83		28.90%	8.90%	3.40%
	1	67.0%	94.50%	25	57%	3.71	0.00	28.79%	8.84%	3.31%
	2	64.0%	94.00%	28	59%	3.60	0.00	28.68%	8.78%	3.22%
	3	61.0%	93.50%	30	61%	3.48	0.00	28.57%	8.72%	3.13%
	4	58.0%	93.00%	32	63%	3.36	0.00	28.46%	8.66%	3.04%
	5	55.0%	92.50%	35	65%	3.25	0.00	28.35%	8.60%	2.95%
<i>Level Achieved</i>		2.17	9.04	10.00	-2.00	22.82	ERR	7.27	-26.67	2.22
<i>Relative Weight</i>		5	5	12	10	10	14.5	14.5	14.5	14.5
<i>Earned Value</i>		10.83	45.20	120.00	-20.00	228.21	ERR	105.45	-386.67	32.22

Performance Index =

ERR

AGENCY-WIDE

2nd Quarter, 1993

EEO

Key Measures of Performance		% of time spent by I.S. for funding division	% of time Sequent/Oracle up during work	Number of Days lost work comp	Wellness: % sick leave used vs. accrued	Hours of training per employee/qtr	Hours of diversity train/empl	EEO		
								Female rep. above SR 22	Minority represent.	Disability
Actual Results		99.6%	98.36%	6	68%	7.30	NA	31.20%	7.90%	3.00%
Potential	10	100.0%	100.00%	0	35%	5.00		30.00%	9.50%	4.30%
	9	97.0%	99.50%	2	37%	4.88	0.00	29.89%	9.44%	4.21%
	8	94.0%	99.00%	5	39%	4.77	0.00	29.78%	9.38%	4.12%
	7	91.0%	98.50%	7	41%	4.65	0.00	29.67%	9.32%	4.03%
	6	88.0%	98.00%	9	43%	4.53	0.00	29.56%	9.26%	3.94%
	5	85.0%	97.50%	12	45%	4.42	0.00	29.45%	9.20%	3.85%
	4	82.0%	97.00%	14	47%	4.30	0.00	29.34%	9.14%	3.76%
	3	79.0%	96.50%	16	49%	4.18	0.00	29.23%	9.08%	3.67%
	2	76.0%	96.00%	18	51%	4.06	0.00	29.12%	9.02%	3.58%
	1	73.0%	95.50%	21	53%	3.95	0.00	29.01%	8.96%	3.49%
Baseline	0	70.0%	95.00%	23	55%	3.83		28.90%	8.90%	3.40%
	1	67.0%	94.50%	25	57%	3.71	0.00	28.79%	8.84%	3.31%
	2	64.0%	94.00%	28	59%	3.60	0.00	28.68%	8.78%	3.22%
	3	61.0%	93.50%	30	61%	3.48	0.00	28.57%	8.72%	3.13%
	4	58.0%	93.00%	32	63%	3.36	0.00	28.46%	8.66%	3.04%
	5	55.0%	92.50%	35	65%	3.25	0.00	28.35%	8.60%	2.95%
Level Achieved		9.87	6.72	7.39	-6.50	29.66	ERR	20.91	-16.67	-4.44
Relative Weight		5	5	12	10	10	14.5	14.5	14.5	14.5
Earned Value		49.37	33.60	88.70	-65.00	296.58	ERR	303.18	-241.67	-64.44

Performance Index =

ERR

The Department does not consider integral to primary business activity

RULE NUMBER	CHANGE
340-28-110 (39)	Add " (39) "Exempt Insignificant Mixture Usage" means use, consumption, or generation of insignificant mixtures which are not considered integral to the activities described by the same major industrial grouping or supporting the major industrial grouping, excluding fuels, raw materials, and end products."
340-28-110 (50)	Add " (50) "Insignificant Mixture" means a chemical mixture containing not more than 1% by weight of any chemical or compound regulated under Division 20 through 32 of this chapter, and not greater than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens."
340-28-110 (60) Repealed	Add " (60) "Non-exempt Insignificant Mixture Usage" means use, consumption, or generation of insignificant mixtures which are considered integral to the activities described by the same major industrial grouping or supporting the major industrial grouping, including fuels, raw materials, and end products."
340-28-1010 (1)	Add "or 340-28-1060" after the words "by OAR 340-28-1050"
340-28-1060 (2)	Add "non-exempt" after the words "emissions from" and delete ", " after the words "insignificant emissions"
340-28-2120 (3) (c) (E)	Add "non-exempt" before the words "insignificant mixture usage"
340-28-2120 (3) (c) (E)	Replace "aggregate insignificant emission levels" with "aggregate insignificant emissions"
340-28-2120 (3) (i)	Replace " with identification of which permit conditions are no longer applicable and the reason." with ". Owners or operators may request that the Department make a determination that an existing permit term or condition is no longer applicable by supplying adequate information to support such a request. The existing permit term or condition shall remain in effect unless or until the Department determines that the term or condition is no longer applicable by permit modification."
340-28-2220 (3) (a) (C)	Delete "not" before the words "Title I modifications"
340-28-2260 (1) (d)	Delete "or 340-28-2270" after the words "through 340-28-2000"

The Department considers integral to the primary business activity

STOEL RIVES BOLEY
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Writer's Direct Dial Number

(503) 294-9259

September 10, 1993

VIA TELECOPY

Mr. Steve Greenwood
Department of Environmental Quality
811 SW Sixth Ave.
Portland, OR 97204

Re: Proposed Title V Rules

Dear Steve:

Thank you for your and your staff's continuing efforts to try to resolve concerns with the proposed Title V rules. The proposed changes set forth in the September 9 draft of Addendum appear to be a sincere attempt to address our objections to the points discussed in our meeting with you on September 3. Nevertheless, the proposed language does not fully address our concerns.

Permit Conditions as Applicable Requirements

As we discussed, the rules should not memorialize existing permit conditions as applicable requirements for all time. It is not sufficient to say that DEQ can modify or revoke the old permit conditions. Some standard must be established for such DEQ action. As we discussed at the meeting, if the source can demonstrate that there is not a rule or statute requiring a particular permit condition, DEQ should not have a authority to impose the condition against the source's objections. Without such a standard, DEQ's discretion is too broad and the rule may not pass muster under the state administrative procedures act.

We suggest that the following language be added to the end of proposed subsections 340-28-110(8)(c) and (d):

"shall be presumed to be an applicable requirement unless the source demonstrates to DEQ that the term or condition is not required by any applicable state or federal rule or statute in effect at the time."

Mr. Steve Greenwood
September 10, 1993
Page 2

By referring to existing statutes and regulations, this language provides a standard for DEQ's determination of whether the source has met its burden of showing that an old permit condition is not an applicable requirement.

Insignificant Mixtures

The proposed definitions of exempt insignificant mixture usage and non-exempt insignificant mixture usage rely on the SIC codes to define what is and is not included. As discussed in some detail in my memorandum to Jill Inahara dated September 3, 1993, SIC codes cannot effectively be used in this manner. The Standard Industrial Classification Manual includes every activity at a plant under the SIC code for the primary operations at the plant. Thus, the use of a lubricant on machinery probably would fall within the meaning of use of an insignificant mixture that is "integral to the activities described by the same major industrial grouping or supporting the major industrial grouping." Consequently, the proposed language probably defeats the very purpose it is intended to accomplish.

As I discussed yesterday with Ms. Inahara, the references to SIC codes in these definitions should be deleted. Non-exempt insignificant mixtures usage should be defined simply to include fuels, raw materials and end products and exempt insignificant mixture usage should include everything else.

Thank you for considering these points.

Very truly yours,


J. Mark Morford

cc: Ms. Wendy Sims (via telecopy)
Ms. Jill Inahara (via telecopy)
Mr. Jim Whitty (via telecopy)

BOISE CASCADE CORPORATION
PRESENTATION TO THE ENVIRONMENTAL QUALITY COMMISSION
SEPTEMBER 10, 1993

Comments on Agenda Item C - Rule Adoption - Federal Operating Permit Program Rules.

My name is Allan Mick. I am the Environmental Manager for the Boise Cascade Pulp and Paper Mill in St. Helens, Oregon. I would like to introduce Rich Garber, the Mill Environmental Engineer. We are here today to comment on the DEQ Clean Air Act Title V rules which addresses insignificant emissions. I know that the DEQ staff and selected people have spent a lot of time working on a task force to draft the new rules. Rich and I are definitely newcomers on the scene, but I think we can present some thoughts from a mill perspective that may help.

On July 29, 1993, the Boise Cascade Corporate Environmental Group gave a full day presentation to St. Helens management which discussed:

- 1990 Clean Air Act Amendments
- Contents of an Operating Permit Application
- Permit Application Schedule & Overview of the Process
- Living with an Operating Permit

I have to admit that, for most of the mill staff, this presentation brought home the full graphic reality of the huge - no, I mean colossal - scope of the Clean Air Act Title V amendments. We immediately began contacting anyone and everyone to clarify miscellaneous issues. It did not take us very long to realize that we need to immediately begin to build the data base for this broad project. Fortunately, our Technical trade association, NCASI has been working with both the State of Texas and the EPA to develop emissions data from a variety of sources.

On September 1st and 2nd, the NCASI sponsored a joint workshop with the American Forest & Paper Association titled "Clean Air Act Operating Permit Workshop" in Atlanta. The first half day of the workshop basically focused on Title V requirements -

the "What to Do". The remaining workshop dealt with "How to do it". Most of the 250 attendees were people that have to write the applications and represent the folks that are in the trenches to do the work. Today I want to focus on only two issues:

- Insignificant Activities
- Enforcement as related to "insignificant" emission limits in the PSEL.

In this workshop we learned that many states, including Illinois, Ohio, Alabama and Texas, have researched and independently generated surprising similar lists for insignificant sources. These small emission sources include items like accidental fires, copiers, dumpsters, parts washers, space heaters, etc. All truly minor sources of emissions. These lists are much more extensive than those included in the DEQ's draft.

The State of Alabama has taken one additional step and developed a third list labeled Trivial Activities which is defined as any air emission from a unit that is considered inconsequential, as determined by the Director. In Alabama, activities on the trivial list is exempted from all provisions of this rule. Copies of this information has been forwarded to DEQ over the past few days.

The reason we are raising these ideas is not to scuttle what already has been drafted but to help simplify a cumbersome part of the rule which will require a lot of resources to develop. By definition insignificant emissions are really a very minor air contaminant problem. DEQ's proposed millwide threshold of 1 ton/year for a criteria pollutant is much more restrictive than proposed in any other state draft rule that we have reviewed.

We suggest that the list of insignificant sources needs to be expanded in the DEQ draft to reduce the effort each facility must spend in:

- Quantification
- Monitoring
- Reporting
- Compliance Demonstration

What are the savings? I don't know. At the workshop, we were told that we should be prepared to spend \$100,000 to \$800,000 for the complete application.

The burden of the limited scope of insignificant emissions in this rule is compounded in Oregon due to our longstanding PSEL rule. Because the PSEL theoretically covers all emissions of a pollutant, some insignificant emissions will be required to be quantified in permit applications and subjected to compliance planning and certification. In other states without a PSEL feature, all insignificant emissions and those significant emissions without regulatory limits will not be subject to compliance requirements at all. In Oregon, every emission that is not classified as insignificant will be subject to the compliance program. Therefore, it is extremely important to include as insignificant the broadest possible scope of emissions. Otherwise, sources in Oregon will be far more heavily regulated than other states.

We in the trenches are now getting some practical experience on what it will take to generate an accurate and acceptable application for submission to the DEQ. Over the past few days, the DEQ has assured Boise Cascade that as the pilot program moves forward, parts of the rule may well be modified. Normally, this would be a good way to proceed as we explore into the unknown. However, whether the St. Helens mill is in the pilot program or not, we have to start processing our Title V air permit application now. We can't anticipate and develop our air permit application strategies on what we believe the rules may say. We have to operate in the real world and respond to regulated requirements as they are written.

Boise Cascade asks the DEQ staff and the EQC to carefully consider the position other states are taking on this issue. We should not discount their approach without careful consideration. I honestly believe they have found a way to resolve the insignificant emissions issues in such a way that makes the permitting process simpler and more cost effective for both the applicant and the agency. I will volunteer Boise Cascade's commitment for both the Timber group and the Paper group to be a resource for the DEQ.

EQC Meetings held Outside Portland (Since mid 1984)

Albany	1992
Astoria	1992
Beaverton	1989
Bend	1990, 1987, 1986, 1985, 1984
Coos Bay	1987
Corvallis	1990, 1989
Eugene	1992, 1985
Hillsboro	1992
Lake Oswego (Marylhurst)	1989
Medford	1991, 1988
Newport	1990, 1984
Oregon City (Clack Comm Coll)	1988
Pendleton	1990, 1984
Salem	1993, 1989, 1986, 1985
Tillamook	1986

State of Oregon
Department of Environmental Quality

Memorandum

Date: September 3, 1993

To: Environmental Quality Commissioners
From: Fred Hansen *Fred Hansen*
Subject: Annual Progress Report, Portland Combined Sewer
Overflow Program

The City recently submitted their annual progress report, as required under the conditions of the Stipulation and Final Order. The Department has reviewed the report, and finds that it reflects the work completed by the City. All of the required "mileposts" in the Order for the past year were met. A copy of the report is attached. The progress report is being provided for your information and review, however no official action is required by the Commission.

The Department expects to bring to the Commission recommendations regarding the interim control measures to be used by the City until such time as the final control measures can be put in place. We anticipate this matter being brought to either the December or February Commission meeting.

The final facilities plan will be brought before the Commission probably in late summer, 1994. The draft facilities plan is currently under review by the Department, with written comments expected to be provided to the City within a month or so.

Attachment



CITY OF PORTLAND ENVIRONMENTAL SERVICES



1120 S.W. Fifth Ave., Room 400, Portland, Oregon 97204-1972
(503) 823-7740, FAX (503) 823-6995

August 31, 1993

Oregon Department of Environmental Quality
Water Quality Division
811 SW Sixth Avenue
Portland, Oregon 97204

Attn: Barbara Burton

RE: Stipulation and Final Order (No. WQ-NWR-91-95)
Combined Sewer Overflow Program, Annual Progress Report

Please find enclosed two copies of the Combined Sewer Overflow Program Annual Progress Report. This annual report covers the period ending on June 30, 1993.

This submittal is responsive to Paragraph 9(a)20 of the referenced Stipulation and Final Order, which states:

By no later than September 1 of each year that this Order is in effect, the Respondent shall submit to the Department and to the Commission for review an annual progress report on efforts to minimize and eliminate discharges that violate water quality standards. These annual reports shall include at a minimum work completed in the previous fiscal year and work scheduled to be completed in the current fiscal year.

If you have any questions regarding this report, please contact me at 823-7266 or Lester E. Lee at 823-7186.

Very truly yours,

Robert B. Eimstad, P.E.
CSO Division Manager

Attachments: 2 copies of Combined Sewer Overflow Program Annual Progress Report

COMBINED SEWER OVERFLOW PROGRAM

ANNUAL PROGRESS REPORT

**CITY OF PORTLAND
BUREAU OF ENVIRONMENTAL SERVICES**

June 30, 1993

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**COMBINED SEWER OVERFLOW PROGRAM
CITY OF PORTLAND, BUREAU OF ENVIRONMENTAL SERVICES
ANNUAL PROGRESS REPORT
June 30, 1993**

Summary

The following summarizes the City's efforts to minimize and eliminate discharges that violate water quality standards during the **previous** fiscal years:

- 11 SFO Milestones Achieved for a Total of 29.
- 13 CSO Control Projects Designed and/or Constructed.
- Continued Implementation of CSO Operation and Maintenance Practices.
- Expanded Public Outreach Program.

The following summarizes the City's efforts to minimize and eliminate discharges that violate water quality standards planned for the **current** fiscal year:

- 3 Additional Milestones for a Total of 32.
- Additional CSO Control Projects to be Designed and/or Constructed.
- Continue Implementation of CSO Operation and Maintenance Practices.
- Expand Public Outreach Program.

Introduction

This report is prepared and submitted to the Department of Environmental Quality (DEQ), pursuant to the Stipulation and Final Order (SFO) of August 5, 1991, between the City and the DEQ. As specified in the SFO, this report summarizes the City's efforts to minimize and eliminate Combined Sewer Overflow (CSO) discharges that violate water quality standards during the previous fiscal year and planned for the current fiscal year ending on June 30th.

Background

Approximately 60% of Portland's population is served by a combined sewer system which carries both domestic sewage and stormwater runoff. When there is a storm event, runoff exceeds the carrying capacity of the combined sewers causing overflows through 55 outfalls to both the Willamette River and the Columbia Slough.

These overflows have been deemed a significant source of pollution in both the Columbia Slough and the Willamette River. The City's combined sewers discharge an average of approximately 6 billion gallons annually, of which approximately 20% is actual untreated sanitary sewage.

The City has agreed to meet the requirements of the Stipulation and Final Order (SFO) issued by the Department of Environmental Quality (DEQ) on August 5, 1991 (No. WQ-NWR-91-75). The SFO is essentially a 20-year compliance schedule to eliminate water quality problems caused by combined sewer overflows. The SFO includes the following major milestones:

- By December 1, 2001, the City must eliminate discharges that violate applicable water quality standards at 20 of the CSO discharge points, including all discharges to the Columbia Slough.
- By December 1, 2006, the City must eliminate discharges that violate applicable water quality standards at 16 of the remaining CSO discharge points.
- By December 1, 2011, the City must eliminate all remaining CSO discharge points that violate water quality standards.

Also included in this SFO were a number of intermediate milestones which includes the submittal of a progress report by September 1 of each year, reporting on the efforts made to eliminate discharges that violate water quality standards during the previous fiscal year and planned for the current fiscal year.

A subsequent SFO (No. WQMW-NWR-92-140) was entered into by the City and DEQ on July 21, 1992, and relates specifically to dry weather discharges from the collection system. This includes any discharge of untreated sewage that is not specifically induced by rainfall. The order includes a compliance schedule for the elimination of dry weather discharges by March 31, 1995 along with several intermediate milestones.

Previous Year's Efforts

This section summarizes the CSO abatement efforts for the period beginning July 1, 1992 and ending June 30, 1993. This report is divided into four major sub-headings: SFO Milestones, Control Projects, Operation & Maintenance Activities, and Public Outreach Activities. The following is a listing of these accomplishments.

11 SFO Milestones Achieved

All eleven Milestones from the two SFOs which were scheduled for completion this year were completed on time. (This means all 29 SFO milestones have been met on time since the signing of the SFOs.) The eleven met during this previous year are:

- Evaluate Feasibility of Converting Significant Industrial Users with Batch Discharge to Dry Weather Only Discharges: Report recommended that significant industrial users to batch discharge during dry weather when feasible. (Milestone met 7/31/92).
- Clean and/or Flush Sewers in Three Demonstration Sub-basins: City maintenance crews cleaned all sewers within one-half mile upstream from the diversion structures for the Kenton, Oswego, and Sellwood basins. The debris collected was weighed and analyzed. Results showed that the annual accumulation of material is minimal, non-organic in nature and tends not to wash out during storms. (Milestone met 8/31/92).
- Installation of 17 Additional "Event Monitors" at Diversion Structures: Seventeen new sewer level monitors (bubbler tubes) have been installed which will alert City staff of dry weather overflows. In addition, liquid sensors have been installed on the tops of 17 diversion dams. All monitored data is telemetered to the Bureau offices, where it recorded and appears as real-time information. (Milestone met 10/30/92).
- Submit the Portion of the Facilities Plan that Characterizes CSOs: The City submitted a report that summarized the results of monitoring and modeling of the CSO system. The results characterized the quality and quantity of the CSOs (in an average year, approx. 6 billion gallons of CSOs are discharged through 55 outfalls). This report was prepared with the assistance of CH2M Hill and Brown & Caldwell. (Milestone met 12/30/92).

- **Submit Draft Interim Control Measures Study:** This report summarized the results of a study to investigate the effectiveness of outfall screening, in-line storage, roof drain disconnections, sewer flushing, street cleaning, sewage pretreatment, and catch basin cleaning as interim control measures. This report was prepared with the assistance of HDR Engineering. (Milestone met 12/30/92).
- **Submit Final Approvable Interim Control Measures Study:** Upon receipt of DEQ's comments this report was finalized. Disconnection of roof drains was found to hold promise as a cost-effective, implementable program, both for the short and long terms, and as a result, was recommended. The remaining measures were considered unsuitable for cost or technical reasons. (Milestone met 5/14/93).
- **Submit Draft Facilities Plan:** This report summarizes three years of effort which includes the CSO characterization work, the development of comprehensive CSO management alternatives which incorporate various levels of CSO control, their impact on the receiving streams, their related cost and impact on sewer rates. This report was prepared with the assistance of CH2M Hill and Brown & Caldwell. (Milestone met 6/30/93).
- **Submit Report Identifying Dry Weather Discharges Observed Since 1/1/92:** This report included a list containing 11 reported incidents of combined sewer dry weather discharges for the period beginning 1/1/92 and ending on 9/15/92. (Milestone met 9/30/92).
- **Complete an Engineering Evaluation and Implement Necessary Diversion Modifications:** An engineering evaluation recommended that modifications to the diversion vortex chambers and dams be implemented along with a revised diversion inspection schedule. The Bureau of Maintenance performed the reconstruction work and are following a revised inspection schedule. (Milestone met on 10/30/92).
- **Submit Draft Dry Weather Overflow Study:** This study included the field verification of diversion structure dimensions, characterization of dry weather overflows, hydraulic modeling, and control strategy development. This report was prepared with the assistance of Black & Veatch. (Milestone met on 3/31/93).
- **Submit Final Approvable Dry Weather Overflow Study:** Upon receipt of DEQ's comments, this report was finalized. The study recommended that 80 diversion structures be modified with specific improvements for each. Also included was an implementation schedule to meet the March 31, 1995 milestone established in the SFO. (Work is underway to modify diversion structures to reduce the frequency of dry weather overflows.) (Milestone met on 6/30/93).

13 CSO Control Projects Designed and/or Constructed

Thirteen capital projects for improvements which would provide for the reduction of the volume and frequency of CSOs were either designed or constructed during this period. They are as follows:

- Fiske Basin Sumps Unit 1: Provided inflow reduction via drainage sump construction at 20 intersections.
- St. Johns Basin Sewer Separation: Completed predesign for the basin-wide sewer separation of St. Johns 'B' basin which will control discharges from four outfalls near Cathedral Park.
- NE 13th Basin Units 3 - 16: Provided inflow reduction via drainage sump construction at 300 intersections (Unit 8 not complete).
- NW 110th Basin Sewer Separation: Designed basin-wide partial sewer separation of basin which will control discharges from one outfall.
- Sump Construction and Testing: Provided construction and field testing of 56 drainage sumps in order to provide a clearer delineation of "sumpable" area.
- Tanner Creek Separation: Completed design for the separation of the upper portion of the basin, which is impacted by the light rail work.
- SE 62nd & Hancock Sewer Relief: Provided inflow reduction via drainage sump construction at 100 intersections.
- Alder Basin Sewer Relief: Design complete which includes providing inline storage of combined sewage beneath Colonel Summers Park.
- Wheeler Basin Sewer Relief: Provided inflow reduction via drainage sump construction at 50 intersections. Completed design for add'l sump construction at 40 intersections.
- Jefferson Basin Separation: Completed design for the removal of 3 diversions on SW 4th Ave.
- NE 25th: Fremont - Regents, Sewer Relief: Provided inflow reduction via drainage sump construction at 20 intersections.
- SE 3rd & Division Street: Stephens Slough: Completed design for the reconstruction of the outfall.
- Modification of Diversion Structures: Completed design for the modification of 82 diversion structures.

CSO Operation and Maintenance Practices

Continued implementation of operation and maintenance practices that reduced the impact of CSOs on the receiving streams. Although the following represents the City-wide effort, the majority of this work was performed within the CSO area:

- Sewer Cleaning: 210 miles
- Catch Basin/Inlet Cleaning: 18,810 catch basin/inlets
- Drainage Sump Cleaning: 580 sedimentation manholes
- Street Sweeping: 45,000 curb miles

Public Education & Involvement

The public education and involvement programs which relate to CSOs were expanded and included the following activities:

- Clean River Funding Task Force: This group began meeting in August 1992 and submitted its final report in February 1993. All meetings were open for public comment, and the group held two hearings.
- Creative Alternatives Workshops: Participants in this group met for three workshops in Fall 1992 to evaluate the City's CSO program and to offer new ideas that could be incorporated into the technical analysis of control alternatives.
- Clean River Committee: This group began meeting in March 1993 to evaluate the technical and financial options BES was considering for submittal of the Draft CSO Management Plan. All meetings were open to public comment and the committee held one hearing.
- River Alert Program: This program is continuing as it was established in previous years. The River alert Hotline has been modified to add options for speaking to a representative in the CSO Division or leaving a name and address to receive printed material about the CSO program.
- Clean River Quest (formerly Ecoquest): This interactive, educational computer program continues to be demonstrated and loaned to Portland classrooms, with overwhelmingly favorable response.
- General Public Telephone Survey: Conducted by Gargan Research in September 1992, this survey assessed the importance citizens place on water quality, their willingness to spend more money on water quality in rivers and streams, and their awareness of CSOs.

- **Community Leader Interviews:** Conducted by Barney & Worth Inc. in September 1992, this series of interviews provided the City with a cross section of opinions and suggestions on the value of protecting and improving water quality in the Willamette River and Columbia Slough, public awareness of CSOs and public information and involvement for the CSO program.
- **"Fixing Our CSOs" videotape:** This 16-minute video has been an effective means to present the basic facts of Portland's CSOs. The video has been seen by over 1,000 residents at meetings of neighborhood associations, business groups and civic organizations. More than 100 copies of the video were distributed to other interested groups.
- **"Combined Sewer Overflows; Issues and Choices" booklet:** This 20-page booklet was created in February 1993 to provide a more in-depth explanation of the CSO problem as well as the control and funding alternatives. Most of the 50,000 copies were distributed by neighborhoods under contract with BES. Others were distributed at public meetings and mailed to interested residents and businesses. The copies distributed by neighborhoods also included a mail-in survey.
- **Focus Groups:** In February 1993, BES contracted with McArthur and Associates to conduct separate focus groups, each with a cross section of Portland residents, in order to further assess the value that the Willamette River and Columbia Slough hold for the Portland community, feelings about the need and cost of reducing CSOs and effective communication channels.
- **Speaker's Bureau:** Effort was intensified in 1993 to contact neighborhood, business and service organizations and offer a presentation on the CSO program. More than 80 of these groups received presentations between January and May 1993.
- **CSO Updates:** Since March 1993, this newsletter has been mailed to nearly 1500 interested citizens and organizations. Issues of the *CSO Update* typically focus on some element of the CSO program and include notice of upcoming public meetings and hearings.
- **Direct Mailer:** In May 1993 a direct mail tabloid was mailed to every Portland postal customer. This mailer provided a brief history of the CSO problem and a description of the control alternatives that were being considered by City Council.
- **Billing Inserts:** Two billing inserts were included in quarterly water/sewer bills during the last year. One, explaining the River Alert program, was distributed in the July, August, September 1992 billing. Another, which described general aspects of the CSO program was mailed in the May, June, July 1993 billing.

- **Public Meetings and Hearings:** Hearings before the Clean River Funding Task Force, the Clean River Committee and City Council were held to get citizen input to the CSO program. Other public meetings were held to provide detailed information on the control and funding alternatives being considered. All public hearings and meetings were advertised in local newspapers and public service announcements were played on area radio stations.
- **Tanner Creek Charrette and Citizen Advisory Committee (CAC):** A day long charrette brought together architects, developers, planners, local officials and citizens to create alternatives for restoring Tanner Creek while at the same time removing it from the combined sewer system. The CAC continues to look at the options as design proceeds.
- **Media Coverage:** Briefings, events, advisories and news releases were provided to the media throughout the year to gain attention for the CSO Management Program. BES staff also provided complete and timely responses to media inquiries and filed all CSO media coverage.

Planned Efforts for Current Year

The current year's effort covers the period beginning July 1, 1993 and ending June 30, 1994. The draft Facilities Plan was submitted on June 30, 1993, and is currently under review by DEQ. We will finalize the Facilities Plan within six months of receipt of the Department's comment. We will also be working on the collaborative process between the EQC and the City, which will determine the appropriate level of CSO control. The work planned for the current year will help transition the CSO program from planning to implementation. The current years work is once again divided into the same four sub-headings as were the previous year's work.

3 Additional SFO Milestone to be Achieved

Three additional SFO milestones will be met for a total of 32. The three are as follows:

- **Submit Final Approvable Facilities Plan:** The draft facilities Plan is currently being review by DEQ and will be finalized within 6 months of receipt of DEQ's review comments.
- **Submit Plans and Specifications for Improvements to Eliminate Dry Weather Overflows:** Submit necessary engineering plans and specification for review and approval by 12/31/93.
- **Award Construction Contracts for Improvements to Eliminate Dry Weather Overflows:** Award all contracts for construction and modification necessary to implement the chosen control strategy for elimination of dry weather discharges by 6/15/94.

CSO Control Projects to be Designed and/or Constructed

The current Bureau Capital Improvement Program for CSO work includes inflow reduction projects (e.g. drainage sump construction, stream diversion), interim control measures, diversion modifications and other elements common to the CSO Management plan independent of the level of control which will ultimately be decided later in the year. Common elements include control work in the Columbia Slough basins, such as St. Johns basin separation and the consolidation conduit; and design work in the Willamette basin, such as the Sellwood basin separation project.

CSO Operation and Maintenance Practices

Continue the implementation of operation and maintenance practices that reduce the impact of CSO on receiving streams. This City-wide efforts will include the following:

- Sewer Cleaning: 241 miles
- Catch Basin/Inlet Cleaning: 6,750 catch basin/inlet
- Drainage Sump Cleaning: 480 sedimentation manholes
- Street Sweeping: 45,000 curb miles

Public Education & Involvement

The public education and involvement activities that are related to CSO and are planned for the current year include:

- Conduct public opinion poll and limited stakeholder survey: These projects will be useful to reevaluated where the CSO program now stands with the public in terms of understanding and preference, and will provide a foundation for public education and involvement goals to be achieved during the upcoming year.
- Develop long-term public education and involvement plan: Upon analyzing the public education and involvement needs and work done to date, develop a long-term plan which continues to education the general public about the CSO problem and which involves stakeholders in key decisions.
- Develop and implement public education and involvement plans for Cornerstone Projects: Some of the cornerstone projects may require specific public education and/or involvement. These activities would target affected residents and businesses ad aim to show the how these specific projects are a part of the overall CSO control plan.
- CSO Updates: To keep interested citizens informed of progress of the CSO program and of upcoming opportunities for input, these newsletters will continue to be distributed on a monthly basis.
- Revise CSO video and booklet: In order to keep using these effective presentation and information tools, these items will be revised to include updated information about the planned projects and decisions that have yet to be made.
- River Alert: This program will continue to inform citizens of when a CSO has occurred.

Conclusion

The City is making good progress towards the eventual control of its CSOs as evident by the above list of accomplishments. Last year the City met all eleven milestones identified in the SFO and is on schedule for meeting the milestones identified in the current year. As we move the program from planning to implementation, more effort will be shifted towards the construction of CSO control facilities. The City will continue with its effort to implement operation and maintenance practices which will have positive water quality impacts. The public outreach program will continue to expand and improve the public's understanding of combined sewers and their impact on water quality.

A G E N D A

ENVIRONMENTAL QUALITY COMMISSION MEETING

September 10, 1993
DEQ Conference Room 3a
811 S. W. 6th Avenue
Portland, Oregon

Friday, September 10, 1993: Regular Meeting beginning at 8:30 a.m.

Notes:

Because of the uncertain length of time needed for each agenda item, the Commission may deal with any item at any time in the meeting. If a specific time is indicated for an agenda item, an effort will be made to consider that item as close to that time as possible. However, scheduled times may be modified if agreeable with participants. Anyone wishing to be heard or listen to the discussion on any item should arrive at the beginning of the meeting to avoid missing the item of interest.

***Public Forum:** The Commission will break the meeting at approximately 11:30 a.m. for the Public Forum if there are people signed up to speak. The Public Forum is an opportunity for citizens to speak to the Commission on environmental issues and concerns not a part of the agenda for this meeting. Individual presentations will be limited to 5 minutes. The Commission may discontinue this forum after a reasonable time if an exceptionally large number of speakers wish to appear.*

A. Approval of Minutes

Minutes for the July 22-23, 1993 meeting.

B. Approval of Tax Credits

Mike Downs, Charles Bianchi (47 applications, Nothing significant or controversial expected)

C. †Rule Adoption: Federal Operating Permit Program Rules and Hazardous Air Pollutant Control Rules

- AMENDMENTS (technical corrections to staff report) will be distributed*
- Director's Opening Comments -- see sheet from AQ for suggested comments.*
- Steve Greenwood & Wendy Sims comments. (Sarah Laumann, Jill Inahara, Gregg Lane, Melissa Hovey, John Kinney will be available. Shelley McIntyre will also be there.)*
- Arno Denecke (Chair, Advisory Committee) comments.*
- Advisory Committee Member Comments:
Jim Whitty (AOI), Annette Liebe (OEC)*

*Fred -
in your
notebook
under
#C*

- D. Approval of Biennial Programs for Communities Seeking to use the Assessment Deferral Loan Program during 1993-95.

Martin Loring, Maggie Breedlove (No controversy expected, very dull)

- E. Report on the 1993 Legislative Session

Olivia Clark

- F. Commission Members Reports (Oral)

- G. Director's Report (Oral)

See Other Business Below----->

- H. Work Session Discussion:

- Economic Benefit - Recovering the Economic Gain of Non-Compliance, and
- Inability to Pay - Calculating a Violator's Ability to Pay a Civil Penalty

Tom Bispham - introduction

Ed Drubach - presentation of item

Van Kollias - available for questions

- I. Work Session Discussion: Environmental Performance Measures

Fred: Ask Division Administrators and Performance Measurement Coordinators to pull chairs to the front to form a more informal "circle".

Elana Stampfer will introduce the topic if you don't.

OTHER BUSINESS

- *Schedule for 1994 Commission Meetings*
- *Potential Out-of-Portland Meeting Locations*
 - *Roseburg (??? S. Umpqua TMDL)*
 - *Ashland (Bear Creek/Ashland Issue)*
 - *La Grande (4/94 target approval of PM₁₀ attainment strategy)*
 - *Eugene/Springfield (LRAPA related actions 3/94 =/-)*
 - *Klamath Falls (Late 94/Early 95 -- Maintenance Plan)*
 - *Newberg, etc. (re I/M Boundary issues)*
 - *Hermiston (Umatilla Army Depot Incinerator Permit -- whenever the issue is ripe)*
 - *Clackamas Community College - Environmental Learning Center (Plastics Recycling Rules)*

- Ontario Area -- if something involving the Commission comes up on mining proposal (most everything is specified as consolidated multi-agency approach)
- Coos Bay -- Coquille/Coos Bay Estuary Studies ???

- Potential Retreat -- 1 day
 - Dates Fred Available: (per Tina)
 - Oct 22 (Friday)
 - Nov 5 (Friday)
 - Nov 16 (Tuesday)
 - Nov 18 (Thursday)
 - Nov 19 (Friday)
 - Nov 30 (Tuesday)
 - Oct EQC -- Oct 28-29 Depending on Agenda Items, could have retreat on Thursday.

 - Locations: (it is difficult to nail anything down without a narrowed option for dates. A suitable location can probably be found for almost any weekday selected.)
 - Menucha -- Space for day meeting generally available during the week. On Fridays, would have to be out of there by 2-4 pm depending on when weekend groups are scheduled to arrive. The Barn is available for Thursday Oct. 28.
 - Jenkins Estate --?
 - Japanese Garden --?
 - OMSI ??

¹Hearings have already been held on the Rule Adoption items; therefore any testimony received will be limited to comments on changes proposed by the Department in response to hearing testimony. The Commission also may choose to question interested parties present at the meeting.

The Commission has set aside October 28-29, 1993, for their next meeting. The location has not been established.

Copies of staff reports for individual agenda items are available by contacting the Director's Office of the Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204, telephone 229-5395, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

If special physical, language or other accommodations are needed for this meeting, please advise the Director's Office, (503)229-5395 (voice)/(503)229-6993 (TDD) as soon as possible but at least 48 hours in advance of the meeting.

September 9, 1993