Oregon Department of Environmental Quality

Nov. 5-7, 2014
Oregon Environmental Quality Commission meeting
Temporary rulemaking, Action item: E

Air Quality Greenhouse Gas Permitting - Temporary

DEQ recommendation to the EQC

DEQ recommends that the Environmental Quality Commission:

Determine that failure to act promptly would result in serious prejudice to the public interest or the interests of the parties concerned as provided under the Justification section of this staff report.

Adopt temporary rule amendments as proposed in Attachment A as part of chapter 340 of the Oregon Administrative Rules to be effective upon filing with the Secretary of State.

Overview

Short summary

DEQ proposes rule amendments to remove certain parts of Oregon's greenhouse gas permitting requirements temporarily while DEQ determines how to respond to a recent change to federal greenhouse gas permitting rules. The temporary rules would prevent some facilities from spending thousands of dollars in 2014 to comply with Oregon's current requirements until EQC considers permanent rules in 2015.

Background

The federal Clean Air Act regulates pollution-emitting facilities to protect public health. Under the Act, certain facilities are required to obtain permits and install technology to control or reduce emissions.

A federal Title V operating permit is designed to administer federal health standards, air toxic requirements and other regulations to protect air quality and ensure that pollution-emitting facilities comply with state and federal air emissions standards. A Prevention of Significant Deterioration permit is designed to protect public health and welfare; preserve, protect, and enhance the air quality in areas of natural, recreational, scenic, or historic value; ensure that economic growth will occur in a manner consistent with the preservation of existing clean air resources; and assure that any decision to permit increased air pollution in any area is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision making process.

It is illegal to operate a major industrial source of air pollution without a Title V permit. A major industrial source is any facility with the potential to emit 100 tons per year of any regulated air pollutant. It is also illegal to construct or modify a major emitting facility without obtaining a Prevention of Significant Deterioration permit. A major emitting facility has the potential to emit 100 tons per year of any regulated air pollutant for certain listed facilities or the potential to emit 250 tons per year of any air regulated pollutant for non-listed facilities.

A facility seeking a Title V or Prevention of Significant Deterioration permit can incur thousands of dollars in permitting and control technology costs. Title V permit holders pay an annual base fee regardless of emission quantities, emission fees per ton of particulate, nitrogen oxide, sulfur oxide and volatile organic compound emissions per calendar year, and specific activity fees for permit modifications. A facility seeking a Prevention of Significant Deterioration permit pays a permit fee of $43,200 and must install emissions controls to comply with emissions limits that are comparable to similar facilities using the Best Available Control Technology.

The U.S. Environmental Protection Agency is responsible for adopting rules to implement the Clean Air Act's Title V and Prevention of Significant Deterioration permitting programs. The U.S. Supreme Court's April 2, 2007, decision in *Massachusetts v. EPA* held that the Clean Air Act definition of air pollutant includes greenhouse gases. In response to the Court's decision, EPA determined that every facility with the potential to emit greenhouse gases above the Clean Air Act's thresholds for Title V and Prevention of Significant Deterioration permitting is subject to the permitting requirements.

However, EPA determined that requiring permits for all facilities with the potential to emit 100 or 250 tons per year or more of greenhouse gases would radically increase the size of the permitting programs and make them difficult to administer. On May 13, 2010, EPA mitigated this radical increase to the programs by limiting the applicability of permits on the basis of greenhouse gas emissions alone to facilities with the potential to emit 100,000 tons of greenhouse gases per year or more.

On April 21, 2011, EQC adopted rules substantively identical to EPA's rules. Like EPA, Oregon's rules require any facility with the potential to emit 100,000 tons per year or more of greenhouse gases to obtain a Title V permit. Oregon's rules also require any new facility with the potential to emit 100,000 tons per year or more of greenhouse gases and any existing facility that makes modifications that increase its greenhouse gas emissions by at least 75,000 tons per year and has total greenhouse gas emissions of 100,000 tons per year or more after the modification to obtain a Prevention of Significant Deterioration permit.

At the federal level, the Utility Air Regulatory Group and numerous other parties, including several states, challenged EPA's rule and on June 23, 2014, the U.S. Supreme Court determined that the Clean Air Act neither compels nor permits EPA to adopt rules requiring a facility to obtain a Title V or Prevention of Significant Deterioration permit on the sole basis of its potential greenhouse gas emissions. Oregon's rules were not affected by the Supreme Court's decision and remain in effect, whereas for EPA and many states, the Court's ruling took effect immediately. For EPA and those states, there is no uncertainty about the greenhouse gas permitting requirements. Facilities regulated by EPA or those states no longer need to submit applications that would formerly have been required by the now-invalid federal greenhouse gas permitting rules.

The Court did not completely invalidate EPA's authority to require permitting for greenhouse gases; it determined that EPA reasonably interpreted the Clean Air Act to require facilities to comply with Prevention of Significant Deterioration permitting requirements for greenhouse gases if they were required to apply for a Prevention of Significant Deterioration permit based on emissions of other regulated pollutants. EPA estimates that the Supreme Court decision means the Prevention of Significant Deterioration program will still regulate 83 percent of greenhouse gas emissions from new and modified facilities that trigger Prevention of Significant Deterioration for other pollutants. The invalidated authority to impose the program on facilities based solely on greenhouse gas emissions would have meant that the program regulated an additional three percent of greenhouse gas emissions from new and modified facilities.

Statement of need

What need is DEQ trying to address?

In 2011, EQC adopted rules substantively identical to the federal greenhouse gas permitting rules. The 2014 Supreme Court decision invalidates EPA's authority to impose the federal greenhouse gas permitting requirements. Oregon's rules were not affected by the Supreme Court's decision and remain in effect, whereas for EPA and many states, the Court's ruling took effect immediately. The discrepancy between federal and state requirements create uncertainty for the agency, regulated community and public.

DEQ seeks to address three primary issues with the proposed temporary rules:

- Oregon's existing rules add to the uncertainty about permitting requirements for greenhouse gases that affected facilities and DEQ must deal with until final action on this issue is taken by EQC in early 2015;
- The existing rules may cause harm to DEQ because they send a signal that DEQ is unwilling to take timely and appropriate action to prevent unnecessary costs; and
- Due to timing of the permitting requirements in existing rules, a small number of facilities may incur unnecessary costs in 2014 if Oregon's final rules in 2015 follow the Supreme Court ruling.

DEQ is in the process of evaluating public comments on permanent rule amendments that DEQ plans to present to EQC for decision in 2015.

How would the proposed rule address the need?

The proposed temporary rules would address the need by removing certain Oregon greenhouse gas permitting requirements temporarily while DEQ determines a final recommendation to EQC regarding the 2014 U.S. Supreme Court decision in a permanent rulemaking.

Justification ORS 183.335(5)

Consequences of not taking immediate action

DEQ determined that failure to amend the proposed rules promptly would result in serious prejudice to the interests of Oregon businesses. Failure to amend the proposed rules promptly would result in continued uncertainty about current and future permitting for greenhouse gases. DEQ is engaged in a permanent rulemaking process that will resolve this uncertainty in a 2015 EQC meeting.

DEQ cannot predict the final outcome of the 2015 rulemaking and must consider two possibilities:

1. The permanent rules in 2015 will not follow the Supreme Court's ruling and therefore retain Oregon's current greenhouse gas permitting program; or
2. The permanent rules will follow the Supreme Court's ruling and eliminate the comparable parts of Oregon's greenhouse gas permitting program.

In the first case, assuming the permanent rules do not follow the Supreme Court's ruling and Oregon retains the current rules, the only effect of the proposed temporary rules is a short delay before facilities must submit the necessary applications or parts of applications. Permitting rules have long been interpreted as follows: applications must comply with the rules in effect when the application is submitted, and the permit must comply with the rules in effect when the permit is issued. If the rules change between application submittal and permit issuance in a way that makes any part of an application unnecessary, then DEQ will ignore the unnecessary parts. If the rules change in a way that requires the permit to address additional requirements, then the applicant must submit the necessary additional information when the rules become effective. If EQC adopts the temporary rule now but decides later to retain the current greenhouse gas permitting rules, the only negative effect is a short delay in each facility's submittal of the necessary applications or parts of applications.

In the second case, assuming the permanent rules follow the Supreme Court's ruling, leaving the current rules in place between now and a 2015 EQC action means that affected facilities must continue to comply with those rules. Any permit applications or parts of applications that facilities submit from now until rule revisions are applicable must comply with the current rules and DEQ must process them under the current rules. However, under this second case, the time, effort, and cost for those facilities to develop the applications would be wasted because portions of the applications would ultimately be ignored by DEQ in the final permit action. This result would seriously prejudice the interests of affected facilities.

Although the number of facilities affected by the proposed temporary rules is small, DEQ also believes that not adopting the temporary rules would seriously prejudice the public interest by undermining the efficient operation of state government. It would send a signal that DEQ is willing to allow affected facilities to waste money when such waste can be prevented by timely and appropriate action. DEQ is very aware that the cost of complying with environmental regulations can be substantial and tries to avoid making facilities spend money unnecessarily.

For these reasons, DEQ concludes that not adopting the temporary rules would seriously prejudice the public interest by failing to have an efficient, effective and predictable state air quality permitting system.

Affected parties

The number of facilities that DEQ knows with certainty are directly and immediately affected by the proposed temporary rule amendments is small.

- One semiconductor manufacturing facility must submit a permit application by the end of 2014. If the proposed temporary rules are not adopted, the facility's application must include a Best Available Control Technology analysis for greenhouse gases. DEQ believes a Best Available Control Technology analysis for greenhouse gases will increase costs by up to several tens of thousands of dollars to the $43,200 cost of the facility's application. If EQC ultimately adopts rules that follow the Supreme Court ruling, this Best Available Control Technology analysis would become unnecessary and the facility would pay a lower application fee.
- Another semiconductor manufacturing facility must submit a Title V permit application by the end of 2014. If EQC ultimately adopts rules that follow the Supreme Court ruling, this application will become unnecessary and the facility will continue to pay only the Air Contaminant Discharge Permit fees of $9,216 rather than the annual Title V base fee of $7,787 and the annual Title V emission fee of $58.88 per ton of particulate, nitrogen oxide, sulfur oxide and volatile organic compound emissions.

In addition to these facilities, DEQ has recently become aware of some possible new facilities that may need to submit applications before a 2015 EQC decision and are thereby potentially affected. However, DEQ does not currently have sufficient information about these facilities to determine if they will be affected.

How temporary rule would avoid or mitigate consequences

The proposed temporary rules would avoid consequences by removing the greenhouse gas permitting requirements temporarily. This would prevent at least two facilities from spending thousands of dollars to comply with permitting requirements before EQC considers permanent rules that take into consideration the U.S. Supreme Court decision. If the proposed temporary rules expire or EQC does not remove the requirements in the permanent rulemaking, these facilities would ultimately have to comply with the greenhouse gas permitting requirements of obtaining a Title V permit or a Prevention of Significant Deterioration permit for new or modified facilities.

Rules affected, authorities, supporting documents

Lead division	Program or activity
Operations	Air Program Operations

Chapter 340 action

Amend	ORS 340-200-0020, 340-216-8010, 340-224-0010

Statutory authority

ORS 468.020, 468A.025, 468A.040, 468A.050 and 468A.310

Other authority

None

Statute implemented

ORS 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310

Documents relied on for rulemaking ORS 183.335(2)(b)(C)

Document title	Document location
Available and Emerging Technologies for Reducing Greenhouse Gas Emissions from Industrial, Commercial and Institutional Boilers	http://www.epa.gov/nsr/ghgdocs/iciboilers.pdf
Supreme Court of the United States: Utility Air Regulatory Group *v*. Environmental Protection Agency ET. AL.	http://www.supremecourt.gov/opinions/13pdf/12-1146_4g18.pdf
EPA Memo: Next Steps and Preliminary Views on the Application of Clean Air Act Permitting Programs to Greenhouse Gases Following the Supreme Court's Decision in *Utility Air Regulatory Group v. Environmental Protection Agency*	http://www.epa.gov/nsr/documents/20140724memo.pdf

Housing costs - ORS 183.534

DEQ determined the proposed rules would have no effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

The proposed rules do not add new requirements; they remove existing requirements temporarily.

Fees

This rulemaking does not involve fees.

Public notice OAR in, OAR 137-001-0080

EQC prior involvement

DEQ emailed information about the proposed temporary rule revisions to EQC in August 2014.

Public notice

DEQ provided notice of the temporary rule Aug. 26, 2014, in the following ways:

Posted notice on DEQ's webpage:
http://www.oregon.gov/deq/RulesandRegulations/Pages/2014/GHGTemp.aspx

Emailed notice to:

- U.S. Environmental Protection Agency, Region 10, Seattle.
- Approximately 6,883 interested parties through GovDelivery, comprised of subscribers of the groups rulemaking, air quality permits and the Title V permit program.
- 406 representatives of permit holders, comprised of Simple and Standard air contaminant discharge permits and Title V operating permits

Mailed notice by the U.S. Postal Service to 47 representatives of permit holders not signed up for email notification, comprised of simple and standard air contaminant discharge permits and Title V operating permits.

Public comment

DEQ did not accept public comment on the temporary rule. DEQ accepted public comment during development of the permanent rule amendments, which DEQ plans to bring to the Oregon Environmental Quality Commission for decision in 2015.

Implementation

Notification

The proposed rules would become effective upon filing with the Secretary of State, approximately Nov. 7, 2014. DEQ would notify affected parties by mail and email.

Five-year review

Requirement ORS 183.405

The state Administrative Procedures Act requires DEQ to review **new** rules within five years of the date the EQC adopts the proposed rules. Though the review will align with any changes to the law in the intervening years, DEQ based its analysis on current law.

Exemption

The following APA exemption from the five-year rule review applies to all of the proposed rules:

- Amendments or repeal of a rule. ORS 183.405 (4)

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 200

GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

General

340-200-0020

General Air Quality Definitions

As used in divisions 200 through 268, unless specifically defined otherwise:

(1) "Act" or "FCAA" means the Federal Clean Air Act, 42 U.S.C.A. 7401 to 7671q.

(2) "Activity" means any process, operation, action, or reaction (e.g., chemical) at a source that emits a regulated pollutant.

(3) "Actual emissions" means the mass emissions of a pollutant from an emissions source during a specified time period.

(a) For determining actual emissions as of the baseline period:

(A) Except as provided in paragraphs (B) and (C) of this subsection and subsection (b) of this section, actual emissions equal the average rate at which the source actually emitted the pollutant during an applicable baseline period and that represents normal source operation;

(B) DEQ presumes that the source-specific mass emissions limit included in a source's permit that was effective on September 8, 1981 is equivalent to the source's actual emissions during the applicable baseline period if it is within 10% of the actual emissions calculated under paragraph (A) of this subsection.

(C) Actual emissions equal the potential to emit of the source for the sources listed in paragraphs (i) through (iii) of this paragraph. The actual emissions will be reset if required in accordance with subsection (c) of this section.

(i) Any source or part of a source that had not begun normal operations during the applicable baseline period but was approved to construct and operate before or during the baseline period in accordance with OAR 340 division 210, or

(ii) Any source or part of a source of greenhouse gases that had not begun normal operations prior to January 1, 2010, but was approved to construct and operate prior to January 1, 2011 in accordance with OAR 340 division 210, or

(iii) Any source or part of a source that had not begun normal operations during the applicable baseline period and was not required to obtain approval to construct and operate before or during the applicable baseline period.

(b) For any source or part of a source that had not begun normal operations during the applicable baseline period, but was approved to construct and operate in accordance with OAR 340 division 224, actual emissions on the date the permit is issued equal the potential to emit of the source. The actual emissions will be reset if required in accordance with subsection (c) of this section.

(c) Where actual emissions equal potential to emit under paragraph (a)(C) or subsection (b) of this section, the potential emissions will be reset to actual emissions as follows:

(A) Paragraphs (A) through (D) of this subsection apply to sources whose actual emissions of greenhouse gases were determined pursuant paragraph (3)(a)(C), and to all other sources of all other regulated pollutants that are permitted in accordance with OAR division 224 on or after May 1, 2011.

(B) Except as provided in paragraph (D) of this subsection, ten years from the end of the applicable baseline period under paragraph (a)(C) or ten years from the date the permit is issued under subsection (b), or an earlier time if requested by the source in a permit application involving public notice, DEQ will reset actual emissions to equal the highest actual emission rate during any consecutive 12-month period during the ten year period or any shorter period if requested by the source.

(C) Any emission reductions achieved due to enforceable permit conditions based on OAR 340-226-0110 and 0120 (highest and best practicable treatment and control) are not included in the reset calculation required in paragraph (B) of this subsection.

(D) DEQ may extend the date of resetting by five additional years upon satisfactory demonstration by the source that construction is ongoing or normal operation has not yet been achieved.

(d) For determining actual emissions for Emission Statements under OAR 340-214-0200 through 340-214-0220 and Oregon Title V Operating Permit Fees under OAR 340 division 220, 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, except categorically insignificant activities and secondary emissions.

(e) For Oregon Title V Operating Permit Fees under OAR 340 division 220, actual emissions must be directly measured with a continuous monitoring system or calculated using a material balance or verified emission factor determined in accordance with division 220 in combination with the source's actual operating hours, production rates, or types of materials processed, stored, or combusted during the specified time period.

(4) "Adjacent" means interdependent facilities that are nearby to each other.

(5) "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.

(6) "Affected states" means 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.

(7) "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 must be less than or equal to the lowest applicable level specified:

(a) One ton for total reduced sulfur, hydrogen sulfide, sulfuric acid mist, any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, and each criteria pollutant, except lead;

(b) 120 pounds for lead;

(c) 600 pounds for fluoride;

(d) 500 pounds for PM10 in a PM10 nonattainment area;

(e) 500 pounds for direct PM2.5 in a PM2.5 nonattainment area;

(f) The lesser of the amount established in 40 CFR 68.130 or 1,000 pounds;

(g) An aggregate of 5,000 pounds for all Hazardous Air Pollutants;

(h) 2,756 tons CO2e for greenhouse gases.

(8) "Air Contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon, acid or particulate matter, or any combination thereof.

(9) "Air Contaminant Discharge Permit" or "ACDP" means a written permit issued, renewed, amended, or revised by DEQ, pursuant to OAR 340 division 216.

(10) "Alternative method" means any method of sampling and analyzing for an air pollutant that is not a reference or equivalent method but has been demonstrated to DEQ's satisfaction to, in specific cases, produce results adequate for determination of compliance. An alternative method used to meet an applicable federal requirement for which a reference method is

specified must be approved by EPA unless EPA has delegated authority for the approval to DEQ.

(11) "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(12) "Applicable requirement" means all of the following as they apply to emissions units in an Oregon Title V Operating Permit program source or ACDP 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 340-200-0040 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 division 216, including any term or condition of any preconstruction permits issued pursuant to OAR 340 division 224, New Source Review, until or unless DEQ revokes or modifies the term or condition by a permit modification;

(d) Any term or condition in a Notice of Construction and Approval of Plans, OAR 340-210-0205 through 340-210-0240, until or unless DEQ revokes or modifies the term or condition by a Notice of Construction and Approval of Plans or a permit modification;

(e) Any term or condition in a Notice of Approval, OAR 340-218-0190, issued before July 1, 2001, until or unless DEQ revokes or modifies the term or condition by a Notice of Approval or a permit modification;

(f) Any term or condition of a PSD permit issued by the EPA until or unless the EPA revokes or modifies the term or condition by a permit modification;

(g) Any standard or other requirement under section 111 of the Act, including section 111(d);

(h) 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;

(i) Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder;

(j) Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act;

(k) Any standard or other requirement under section 126(a)(1) and(c) of the Act;

(l) Any standard or other requirement governing solid waste incineration, under section 129 of the Act;

(m) Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act;

(n) Any standard or other requirement for tank vessels, under section 183(f) of the Act;

(o) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act;

(p) 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 an Oregon Title V Operating Permit; and

(q) 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.

(13) "Baseline Emission Rate" means the actual emission rate during a baseline period. Baseline emission rate does not include increases due to voluntary fuel switches or increased hours of operation that occurred after that baseline period.

(a) A baseline emission rate will be established only for regulated pollutants subject to OAR 340 division 224 as specified in the definition of regulated pollutant. A baseline emission rate will not be established for PM2.5.

(b) The baseline emission rate for greenhouse gases, on a CO2e basis, will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(c) For a pollutant that becomes a regulated pollutant subject to OAR 340 division 224 after May 1, 2011, the initial baseline emission rate is the actual emissions of that pollutant during any consecutive 12 month period within the 24 months immediately preceding its designation as a regulated pollutant if a baseline period has not been defined for the pollutant.

(d) The baseline emission rate will be recalculated if actual emissions are reset in accordance with the definition of actual emissions.

(e) Once the baseline emission rate has been established or recalculated in accordance with subsection (d) of this section, the production basis for the baseline emission rate may only be changed if a material mistake or an inaccurate statement was made in establishing the production basis for baseline emission rate.

(14) "Baseline Period" means:

(a) Any consecutive 12 calendar month period during the calendar years 1977 or 1978 for any regulated pollutant other than greenhouse gases. DEQ may allow the use of a prior time period upon a determination that it is more representative of normal source operation.

(b) Any consecutive 12 calendar month period during the calendar years 2000 through 2010 for greenhouse gases.

(15) "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 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 may the application of BACT result in emissions of any air contaminant that 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 must, to the degree possible, set forth the emission reduction achievable and provide for compliance by prescribing appropriate permit conditions.

(16) "Biomass" means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.

(17) "Capacity" means the maximum regulated pollutant emissions from a stationary source under its physical and operational design.

(18) "Capture system" means the equipment (including but not limited to hoods, ducts, fans, and booths) used to contain, capture and transport a pollutant to a control device.

(19) "Carbon dioxide equivalent" or "CO2e" means an amount of a greenhouse gas or gases expressed as the equivalent amount of carbon dioxide, and shall be computed by multiplying the mass of each of the greenhouse gases by the global warming potential published for each gas at 40 CFR Part 98, subpart A, Table A-1 — Global Warming Potentials, and adding the resulting value for each greenhouse gas to compute the total equivalent amount of carbon dioxide.

(20) "Categorically insignificant activity" means any of the following listed pollutant emitting activities principally supporting the source or the major industrial group. Categorically insignificant activities must comply with all applicable requirements.

(a) Constituents of a chemical mixture present at less than 1% by weight of any chemical or compound regulated under divisions 200 through 268 excluding divisions 248 and 262 of this chapter, or less than 0.1% by weight of any carcinogen listed in the U.S. Department of Health and Human Service's Annual Report on Carcinogens when usage of the chemical mixture is less than 100,000 pounds/year;

(b) Evaporative and tail pipe emissions from on-site motor vehicle operation;

(c) Distillate oil, kerosene, and gasoline fuel burning equipment rated at less than or equal to 0.4 million Btu/hr;

(d) Natural gas and propane burning equipment rated at less than or equal to 2.0 million Btu/hr;

(e) Office activities;

(f) Food service activities;

(g) Janitorial activities;

(h) Personal care activities;

(i) Groundskeeping activities including, but not limited to building painting and road and parking lot maintenance;

(j) On-site laundry activities;

(k) On-site recreation facilities;

(l) Instrument calibration;

(m) Maintenance and repair shop;

(n) Automotive repair shops or storage garages;

(o) Air cooling or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;

(p) Refrigeration systems with less than 50 pounds of charge of ozone depleting substances regulated under Title VI, including pressure tanks used in refrigeration systems but excluding any combustion equipment associated with such systems;

(q) 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;

(r) Temporary construction activities;

(s) Warehouse activities;

(t) Accidental fires;

(u) Air vents from air compressors;

(v) Air purification systems;

(w) Continuous emissions monitoring vent lines;

(x) Demineralized water tanks;

(y) Pre-treatment of municipal water, including use of deionized water purification systems;

(z) Electrical charging stations;

(aa) Fire brigade training;

(bb) Instrument air dryers and distribution;

(cc) Process raw water filtration systems;

(dd) Pharmaceutical packaging;

(ee) Fire suppression;

(ff) Blueprint making;

(gg) Routine maintenance, repair, and replacement such as anticipated activities most often associated with and performed during regularly scheduled equipment outages to maintain a plant and its equipment in good operating condition, including but not limited to steam cleaning, abrasive use, and woodworking;

(hh) Electric motors;

(ii) Storage tanks, reservoirs, transfer and lubricating equipment used for ASTM grade distillate or residual fuels, lubricants, and hydraulic fluids;

(jj) On-site storage tanks not subject to any New Source Performance Standards (NSPS), including underground storage tanks (UST), storing gasoline or diesel used exclusively for fueling of the facility's fleet of vehicles;

(kk) Natural gas, propane, and liquefied petroleum gas (LPG) storage tanks and transfer equipment;

(ll) Pressurized tanks containing gaseous compounds;

(mm) Vacuum sheet stacker vents;

(nn) Emissions from wastewater discharges to publicly owned treatment works (POTW) provided the source is authorized to discharge to the POTW, not including on-site wastewater treatment and/or holding facilities;

(oo) Log ponds;

(pp) Storm water settling basins;

(qq) Fire suppression and training;

(rr) Paved roads and paved parking lots within an urban growth boundary;

(ss) Hazardous air pollutant emissions of fugitive dust from paved and unpaved roads except for those sources that have processes or activities that contribute to the deposition and entrainment of hazardous air pollutants from surface soils;

(tt) Health, safety, and emergency response activities;

(uu) Emergency generators and pumps used only during loss of primary equipment or utility service due to circumstances beyond the reasonable control of the owner or operator, or to address a power emergency as determined by DEQ;

(vv) Non-contact steam vents and leaks and safety and relief valves for boiler steam distribution systems;

(ww) Non-contact steam condensate flash tanks;

(xx) Non-contact steam vents on condensate receivers, deaerators and similar equipment;

(yy) Boiler blowdown tanks;

(zz) Industrial cooling towers that do not use chromium-based water treatment chemicals;

(aaa) Ash piles maintained in a wetted condition and associated handling systems and activities;

(bbb) Oil/water separators in effluent treatment systems;

(ccc) Combustion source flame safety purging on startup;

(ddd) Broke beaters, pulp and repulping tanks, stock chests and pulp handling equipment, excluding thickening equipment and repulpers;

(eee) Stock cleaning and pressurized pulp washing, excluding open stock washing systems; and

(fff) White water storage tanks.

(21) "Certifying individual" means the responsible person or official authorized by the owner or operator of a source who certifies the accuracy of the emission statement.

(22) "CFR" means Code of Federal Regulations.

(23) "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 340-204-0050.

(24) "Commence" or "commencement" means that the owner or operator has obtained all necessary preconstruction approvals required by the 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.

(25) "Commission" or "EQC" means Environmental Quality Commission.

(26) "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.

(27) "Construction":

(a) Except as provided in subsection (b) of this section means any physical change including, but not limited to, fabrication, erection, installation, demolition, or modification of a source or part of a source;

(b) As used in OAR 340 division 224 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.

(28) "Continuous compliance determination method" means a method, specified by the applicable standard or an applicable permit condition, which:

(a) Is used to determine compliance with an emission limitation or standard on a continuous basis, consistent with the averaging period established for the emission limitation or standard; and

(b) Provides data either in units of the standard or correlated directly with the compliance limit.

(29) "Continuous Monitoring Systems" means sampling and analysis, in a timed sequence, using techniques which will adequately reflect actual emissions or concentrations on a continuing basis in accordance with DEQ's Continuous Monitoring Manual, and includes continuous emission monitoring systems, continuous opacity monitoring system (COMS) and continuous parameter monitoring systems.

(30) "Control device" means equipment, other than inherent process equipment that is used to destroy or remove air pollutant(s) prior to discharge to the atmosphere. The types of equipment that may commonly be used as control devices include, but are not limited to, fabric filters, mechanical collectors, electrostatic precipitators, inertial separators, afterburners, thermal or catalytic incinerators, adsorption devices(such as carbon beds), condensers, scrubbers(such as wet collection and gas absorption devices), selective catalytic or non-catalytic reduction systems, flue gas recirculation systems, spray dryers, spray towers, mist eliminators, acid plants, sulfur recovery plants, injection systems(such as water, steam, ammonia, sorbent or limestone injection), and combustion devices independent of the particular process being conducted at an emissions unit(e.g., the destruction of emissions achieved by venting process emission streams to flares, boilers or process heaters). For purposes of OAR 340-212-0200 through 340-212-0280, a control device does not include passive control measures that act to prevent pollutants from forming, such as the use of seals, lids, or roofs to prevent the release of pollutants, use of low-polluting fuel or feedstocks, or the use of combustion or other process design features or characteristics. If an applicable requirement establishes that particular equipment which otherwise meets this definition of a control device does not constitute a control device as applied to a particular pollutant-specific emissions unit, then that definition will be binding for purposes of OAR 340-212-0200 through 340-212-0280.

(31) "Criteria Pollutant" means nitrogen oxides, volatile organic compounds, particulate matter, PM10, PM2.5, sulfur dioxide, carbon monoxide, or lead.

(32) "Data" means the results of any type of monitoring or method, including the results of instrumental or non-instrumental monitoring, emission calculations, manual sampling procedures, recordkeeping procedures, or any other form of information collection procedure used in connection with any type of monitoring or method.

(33) "De minimis emission levels" mean the levels for the pollutants listed in Table 4.

NOTE: De minimis is compared to all increases that are not included in the PSEL.

(34) "Department":

(a) Means Department of Environmental Quality; except

(b) As used in OAR 340 divisions 218 and 220 means Department of Environmental Quality or in the case of Lane County, Lane Regional Air Protection Agency.

(35) "Device" means any machine, equipment, raw material, product, or byproduct at a source that produces or emits a regulated pollutant.

(36) "Direct PM2.5" has the meaning provided in the definition of PM2.5.

(37) "Director" means the Director of DEQ or the Director's designee.

(38) "Draft permit" means the version of an Oregon Title V Operating Permit for which DEQ or Lane Regional Air Protection Agency offers public participation under OAR 340-218-0210 or the EPA and affected State review under 340-218-0230.

(39) "Effective date of the program" means the date that the EPA approves the Oregon Title V Operating Permit program submitted by DEQ 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.

(40) "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 does not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

(41) "Emission" means a release into the atmosphere of any regulated pollutant or any air contaminant.

(42) "Emission Estimate Adjustment Factor" or "EEAF" means an adjustment applied to an emission factor to account for the relative inaccuracy of the emission factor.

(43) "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).

(44)(a) Except as provided in subsection (b) of this section, "Emission Limitation" and "Emission Standard" mean a requirement established by a State, local government, or 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.

(b) As used in OAR 340-212-0200 through 340-212-0280, "Emission limitation or standard" means any applicable requirement that constitutes an emission limitation, emission standard, standard of performance or means of emission limitation as defined under the Act. An emission limitation or standard may be expressed in terms of the pollutant, expressed either as a specific quantity, rate or concentration of emissions (e.g., pounds of SO2 per hour, pounds of SO2 per million British thermal units of fuel input, kilograms of VOC per liter of applied coating solids, or parts per million by volume of SO2) or as the relationship of uncontrolled to controlled emissions (e.g., percentage capture and destruction efficiency of VOC or percentage reduction of SO2). An emission limitation or standard may also be expressed either as a work practice, process or control device parameter, or other form of specific design, equipment, operational, or operation and maintenance requirement. For purposes of 340-212-0200 through 340-212-0280, an emission limitation or standard does not include general operation requirements that an owner or operator may be required to meet, such as requirements to obtain a permit, to operate and maintain sources in accordance with good air pollution control practices, to develop and maintain a malfunction abatement plan, to keep records, submit reports, or conduct monitoring.

(45) "Emission Reduction Credit Banking" means to presently reserve, subject to requirements of OAR 340 division 268, Emission Reduction Credits, emission reductions for use by the reserver or assignee for future compliance with air pollution reduction requirements.

(46) "Emission Reporting Form" means a paper or electronic form developed by DEQ that must be completed by the permittee to report calculated emissions, actual emissions, or permitted emissions for interim emission fee assessment purposes.

(47) "Emissions unit" means any part or activity of a source that emits or has the potential to emit any regulated air pollutant.

(a) A part of a source is any machine, equipment, raw material, product, or byproduct that produces or emits regulated air pollutants. An activity is any process, operation, action, or reaction (e.g., chemical) at a stationary source that emits regulated air pollutants. Except as described in subsection (d) of this section, parts and activities may be grouped for purposes of defining an emissions unit if 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" under Title IV of the FCAA.

(d) Parts and activities cannot be grouped for determining emissions increases from an emissions unit under OAR 340-224-0050 through 340-224-0070, or 340 division 210, or for determining the applicability of any New Source Performance Standard (NSPS).

(48) "EPA" or "Administrator" means the Administrator of the United States Environmental Protection Agency or the Administrator's designee.

(49) "Equivalent method" means any method of sampling and analyzing for an air pollutant that has been demonstrated to DEQ's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions. An equivalent method used to meet an applicable federal requirement for which a reference method is specified must be approved by EPA unless EPA has delegated authority for the approval to DEQ.

(50) "Event" means excess emissions that arise from the same condition and occur during a single calendar day or continue into subsequent calendar days.

(51) "Exceedance" means a condition that is detected by monitoring that provides data in terms of an emission limitation or standard and that indicates that emissions (or opacity) are greater than the applicable emission limitation or standard(or less than the applicable standard in the case of a percent reduction requirement) consistent with any averaging period specified for averaging the results of the monitoring.

(52) "Excess emissions" means emissions in excess of a permit limit or any applicable air quality rule.

(53) "Excursion" means a departure from an indicator range established for monitoring under OAR 340-212-0200 through 340-212-0280 and 340-218-0050(3)(a), consistent with any averaging period specified for averaging the results of the monitoring.

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

(55) "Federal Major Source" means a source with potential to emit any individual regulated pollutant, excluding GHGs and hazardous air pollutants listed in OAR 340 division 244, greater than or equal to 100 tons per year if in a source category listed below, or 250 tons per year if not in a source category listed. ~~In addition, for greenhouse gases, a federal major source must also have the potential to emit CO2e greater than or equal to 100,000 tons per year.~~ The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a federal major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.

(a) Fossil fuel-fired steam electric plants of more than 250 million BTU/hour heat input;

(b) Coal cleaning plants with thermal dryers;

(c) Kraft pulp mills;

(d) Portland cement plants;

(e) Primary Zinc Smelters;

(f) Iron and Steel Mill Plants;

(g) Primary aluminum ore reduction plants;

(h) Primary copper smelters;

(i) Municipal Incinerators capable of charging more than 50 tons of refuse per day;

(j) Hydrofluoric acid plants;

(k) Sulfuric acid plants;

(l) Nitric acid plants;

(m) Petroleum Refineries;

(n) Lime plants;

(o) Phosphate rock processing plants;

(p) Coke oven batteries;

(q) Sulfur recovery plants;

(r) Carbon black plants, furnace process;

(s) Primary lead smelters;

(t) Fuel conversion plants;

(u) Sintering plants;

(v) Secondary metal production plants;

(w) Chemical process plants;

(x) Fossil fuel fired boilers, or combinations thereof, totaling more than 250 million BTU per hour heat input;

(y) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(z) Taconite ore processing plants;

(aa) Glass fiber processing plants;

(bb) Charcoal production plants.

(56) "Final permit" means the version of an Oregon Title V Operating Permit issued by DEQ or Lane Regional Air Protection Agency that has completed all review procedures required by OAR 340-218-0120 through 340-218-0240.

(57) "Form" means a paper or electronic form developed by DEQ.

(58) "Fugitive Emissions":

(a) Except as used in subsection (b) of this section, 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.

(b) As used to define a major Oregon Title V Operating Permit program source, means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(59) "General permit":

(a) Except as provided in subsection (b) of this section, means an Oregon Air Contaminant Discharge Permit established under OAR 340-216-0060;

(b) As used in OAR 340 division 218 means an Oregon Title V Operating Permit established under OAR 340-218-0090.

(60) "Generic PSEL" means the levels for the pollutants listed in Table 5.

NOTE: Sources are eligible for a generic PSEL if expected emissions are less than or equal to the levels listed in Table 5 under this rule. Baseline emission rate and netting basis do not apply to pollutants at sources using generic PSELs.

(61)(a) "Greenhouse Gases" or "GHGs" means the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. Each gas is also individually a greenhouse gas.

(b) From May 1, 2011 through July 20, 2014, ~~T~~the definition of greenhouse gases in subsection (a) ~~of this section~~ d~~i~~does not include, for purposes of division 216, 218, and 224, carbon dioxide emissions from the combustion or decomposition of biomass ~~except to the extent~~

~~required by federal law~~. As a result, carbon dioxide emissions from the combustion or decomposition of biomass was not a regulated air pollutant and was not subject to divisions 216, 218, and 224 during that time period.

(62) "Growth Allowance" means an allocation of some part of an airshed's capacity to accommodate future proposed major sources and major modifications of sources.

(63) "Immediately" means as soon as possible but in no case more than one hour after a source knew or should have known of an excess emission period.

(64) "Inherent process equipment" means equipment that is necessary for the proper or safe functioning of the process, or material recovery equipment that the owner or operator documents is installed and operated primarily for purposes other than compliance with air pollution regulations. Equipment that must be operated at an efficiency higher than that achieved during normal process operations in order to comply with the applicable emission limitation or standard is not inherent process equipment. For the purposes of OAR 340-212-0200 through 340-212-0280, inherent process equipment is not considered a control device.

(65) "Insignificant Activity" means an activity or emission that DEQ has designated as categorically insignificant, or that meets the criteria of aggregate insignificant emissions.

(66) "Insignificant Change" means an off-permit change defined under OAR 340-218-0140(2)(a) to either a significant or an insignificant activity which:

(a) Does not result in a re-designation 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.

(67) "Late Payment" means a fee payment which is postmarked after the due date.

(68) "Lowest Achievable Emission Rate" 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. The application of this term cannot 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.

(69) "Maintenance Area" means a geographical area of the State that was designated as a nonattainment area, redesignated as an attainment area by EPA, and redesignated as a maintenance area by the Environmental Quality Commission in OAR 340, division 204.

(70) "Maintenance Pollutant" means a pollutant for which a maintenance area was formerly designated a nonattainment area.

(71) "Major Modification" means any physical change or change in the method of operation of a source that results in satisfying the requirements of both subsections (a) and (b) of this section, or of subsection (c) of this section for any regulated air pollutant. Major modifications for ozone precursors or PM2.5 precursors also constitute major modifications for ozone and PM2.5, respectively.

(a) Except as provided in subsection (d) of this section, a PSEL that exceeds the netting basis by an amount that is equal to or greater than the significant emission rate.

(b) The accumulation of emission increases due to physical changes and changes in the method of operation as determined in accordance with paragraphs (A) and (B) of this subsection is equal to or greater than the significant emission rate.

(A) Calculations of emission increases in subsection (b) of this section must account for all accumulated increases in actual emissions due to physical changes and changes in the method of operation occurring at the source since the applicable baseline period, or since the time of the last construction approval issued for the source pursuant to the New Source Review Regulations in OAR 340 division 224 for that pollutant, whichever time is more recent. These include fugitive emissions and emissions from insignificant activities.

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

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

(A) Subsection (c) of this section does not apply to PM2.5 and greenhouse gases.

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

(d) If a portion of the netting basis or PSEL (or both) was set based on PTE because the source had not begun normal operations but was permitted or approved to construct and operate, that portion of the netting basis or PSEL (or both) must be excluded from the tests in subsections (a) and (b) of this section until the netting basis is reset as specified in the definitions of baseline emission rate and netting basis.

(e) The following are not considered major modifications:

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

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

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

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

(72) "Major Source":

(a) Except as provided in subsection (b) of this section, means a source that emits, or has the potential to emit, any regulated air pollutant at a Significant Emission Rate. The fugitive emissions and insignificant activity emissions of a stationary source are considered in determining whether it is a major source. Potential to emit calculations must include emission increases due to a new or modified source and may include emission decreases.

(b) As used in OAR 340 division 210, Stationary Source Notification Requirements, OAR 340 division 218, rules applicable to sources required to have Oregon Title V Operating Permits, OAR 340 division 220, Oregon Title V Operating Permit Fees, and 340-216-0066 Standard ACDPs, 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 supporting the major industrial group and that is described in paragraphs (A), (B), or (C) ~~or (D) of this subsection~~. For the purposes of this subsection, a stationary source or group of stationary sources is 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 means:

(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 that has been listed pursuant to OAR 340-244-0040; 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as the Administrator may establish by rule.

Emissions from any oil or gas exploration or production well, along with its associated equipment, and emissions from any pipeline compressor or pump station will 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" will 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, except greenhouse gases, including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source are not 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 50 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) Any other stationary source category, that as of August 7, 1980 is being regulated under section 111 or 112 of the Act.

~~(C) Beginning July 1, 2011, a major stationary source of air pollutants, as defined by Section 302 of the Act, that directly emits or has the potential to emit 100 tpy or more of greenhouse gases and directly emits or has the potential to emit 100,000 tpy or more CO2e, including fugitive emissions.~~

(C~~D~~) 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 of this subsection to 100, 50, 25, and 10 tpy of nitrogen oxides do 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.

(73) "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.

(74) "Modification," except as used in the term "major modification," means any physical change to, or change in the method of operation of, a stationary source that results in an increase in the stationary source's potential to emit any regulated air pollutant on an hourly basis. Modifications do not include the following:

(a) Increases in hours of operation or production rates that do not involve a physical change or change in the method of operation;

(b) Changes in the method of operation due to using an alternative fuel or raw material that the stationary source was physically capable of accommodating during the baseline period; and

(c) Routine maintenance, repair and like-for-like replacement of components unless they increase the expected life of the stationary source by using component upgrades that would not otherwise be necessary for the stationary source to function.

(75) "Monitoring" means any form of collecting data on a routine basis to determine or otherwise assess compliance with emission limitations or standards. Monitoring may include record keeping if the records are used to determine or assess compliance with an emission limitation or standard (such as records of raw material content and usage, or records documenting compliance with work practice requirements). Monitoring may include conducting compliance method tests, such as the procedures in appendix A to 40 CFR part 60, on a routine periodic basis. Requirements to conduct such tests on a one-time basis, or at such times as a regulatory authority may require on a non-regular basis, are not considered monitoring requirements for purposes of this definition. Monitoring may include one or more than one of the following data collection techniques as appropriate for a particular circumstance:

(a) Continuous emission or opacity monitoring systems.

(b) Continuous process, capture system, control device or other relevant parameter monitoring systems or procedures, including a predictive emission monitoring system.

(c) Emission estimation and calculation procedures (e.g., mass balance or stoichiometric calculations).

(d) Maintaining and analyzing records of fuel or raw materials usage.

(e) Recording results of a program or protocol to conduct specific operation and maintenance procedures.

(f) Verifying emissions, process parameters, capture system parameters, or control device parameters using portable or in situ measurement devices.

(g) Visible emission observations and recording.

(h) Any other form of measuring, recording, or verifying on a routine basis emissions, process parameters, capture system parameters, control device parameters or other factors relevant to assessing compliance with emission limitations or standards.

(76) "Netting Basis" means the baseline emission rate MINUS any emission reductions required by rule, orders, or permit conditions required by the SIP or used to avoid SIP requirements, MINUS any unassigned emissions that are reduced from allowable under OAR 340-222-0045, MINUS any emission reduction credits transferred off site, PLUS any emission increases approved through the New Source Review regulations in OAR 340 division 224 MINUS any emissions reductions required by subsection (g) of this section.

(a) A netting basis will only be established for regulated pollutants subject to OAR 340 division 224 as specified in the definition of regulated pollutant.

(b) The initial PM2.5 netting basis and PSEL for a source that was permitted prior to May 1, 2011 will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(A) The initial netting basis is the PM2.5 fraction of the PM10 netting basis in effect on May 1, 2011. DEQ may increase the initial PM2.5 netting basis by up to 5 tons if necessary to avoid exceedance of the PM2.5 significant emission rate as of May 1, 2011.

(B) Notwithstanding OAR 340-222-0041(2), the initial source specific PSEL for a source with PTE greater than or equal to the SER will be set equal to the PM2.5 fraction of the PM10 PSEL.

(c) The initial greenhouse gas netting basis and PSEL for a source will be established with the first permitting action issued after July 1, 2011, provided the permitting action involved a public notice period that began after July 1, 2011.

(d) Netting basis is zero for:

(A) Any regulated pollutant emitted from a source that first obtained permits to construct and operate after the applicable baseline period for that regulated pollutant, and has not undergone New Source Review for that pollutant;

(B) Any pollutant that has a generic PSEL in a permit;

(C) Any source permitted as portable; or

(D) Any source with a netting basis calculation resulting in a negative number.

(e) If a source relocates to an adjacent site, and the time between operation at the old and new sites is less than six months, the source may retain the netting basis from the old site.

(f) Emission reductions required by rule, order, or permit condition affect the netting basis if the source currently has devices or emissions units that are subject to the rules, order, or permit condition. The baseline emission rate is not affected. The netting basis reduction will be effective on the effective date of the rule, order, or permit condition requiring the reduction. The PSEL reduction will be effective on the compliance date of the rule, order, or permit condition.

(g) For permits issued after May 1, 2011 under New Source Review regulations in OAR 340 division 224, and where the netting basis initially equaled the potential to emit for a new or modified source, the netting basis will be reduced in accordance with the definition of actual emissions. Notwithstanding OAR 340-222-0041(2), this adjustment does not require a reduction in the PSEL.

(h) Emission reductions required by rule do not include emissions reductions achieved under OAR 340-226-0110 and 0120.

(i) Netting basis for a pollutant with a revised definition will be adjusted if the source is emitting the pollutant at the time of redefining and the pollutant is included in the permit's netting basis.

(j) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis will be established at no more than the level used in the dispersion modeling to demonstrate attainment with the ambient air quality standard (i.e., the attainment demonstration is an emission reduction required by rule).

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

(78) "Nonattainment Area" means a geographical area of the State, as designated by the Environmental Quality Commission or the EPA, that exceeds any state or federal primary or secondary ambient air quality standard.

(79) "Nonattainment Pollutant" means a pollutant for which an area is designated a nonattainment area.

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

(81) "Offset" means an equivalent or greater emission reduction that is required before allowing an emission increase from a proposed major source or major modification of an existing source.

(82) "Opacity" means the degree to which an emission reduces transmission of light and obscures the view of an object in the background as measured in accordance with OAR 340-212-0120 and 212-0140. Unless otherwise specified by rule, opacity shall be measured in accordance with EPA Method 9 or a continuous opacity monitoring system (COMS) installed and operated in accordance with DEQ's Continuous Monitoring Manual. For all standards, the minimum observation period shall be six minutes, though longer periods may be required by a specific rule or permit condition. Aggregate times (e.g. 3 minutes in any one hour) consist of the total duration of all readings during the observation period that equal or exceed the opacity percentage in the standard, whether or not the readings are consecutive.

(83) "Oregon Title V Operating Permit" means any permit covering an Oregon Title V Operating Permit source that is issued, renewed, amended, or revised pursuant to division 218.

(84) "Oregon Title V Operating Permit program" means a program approved by the Administrator under 40 CFR Part 70.

(85) "Oregon Title V Operating Permit program source" means any source subject to the permitting requirements, OAR 340 division 218.

(86) "Ozone Precursor" means nitrogen oxides and volatile organic compounds as measured by an applicable reference method in accordance with DEQ's Source Sampling Manual(January, 1992) or as measured by an EPA reference method in 40 CFR Part 60, appendix A or as measured by a material balance calculation for VOC as appropriate.

(87) "Ozone Season" means the contiguous 3 month period during which ozone exceedances typically occur (i.e., June, July, and August).

(88) "Particulate Matter" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air. When used in emission standards, particulate matter is defined by the method specified within the standard or by an applicable reference method in accordance with OAR 340-212-0120 and 340-212-0140. Unless otherwise specified, sources with exhaust gases at or near ambient conditions may be tested with DEQ Method 5 or DEQ Method 8, as approved by DEQ. Direct heat transfer sources shall be tested with DEQ Method 7; indirect heat transfer combustion sources and all other non-fugitive emissions sources not listed above shall be tested with DEQ Method 5.

(89) "Permit" means an Air Contaminant Discharge Permit or an Oregon Title V Operating Permit.

(90) "Permit modification" means a permit revision that meets the applicable requirements of OAR 340 division 216, 340 division 224, or 340-218-0160 through 340-218-0180.

(91) "Permit revision" means any permit modification or administrative permit amendment.

(92) "Permitted Emissions" as used in OAR division 220 means each regulated pollutant portion of the PSEL, as identified in an ACDP, Oregon Title V Operating Permit, review report, or by DEQ pursuant to OAR 340-220-0090.

(93) "Permittee" means the owner or operator of the facility, authorized by the ACDP or the Oregon Title V Operating Permit to operate the source.

(94) "Person" means individuals, corporations, associations, firms, partnerships, joint stock companies, public and municipal corporations, political subdivisions, the State of Oregon and any agencies thereof, and the federal government and any agencies thereof.

(95) "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 permitted emission.

(96) "PM10":

(a) When used in the context of emissions, means finely divided solid or liquid material, including condensable particulate, 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 in accordance with DEQ's Source Sampling Manual(January, 1992);

(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.

(97) "PM2.5":

(a) When used in the context of direct PM2.5 emissions, means finely divided solid or liquid material, including condensable particulate, other than uncombined water, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by EPA reference methods 201A and 202 in 40 CFR Part 51, appendix M.

(b) When used in the context of PM2.5 precursor emissions, means sulfur dioxide (SO2) and nitrogen oxides (NOx) emitted to the ambient air as measured by EPA reference methods in 40 CFR Part 60, appendix A.

(c) When used in the context of ambient concentration, means particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR Part 50, Appendix L, or an equivalent method designated in accordance with 40 CFR Part 53.

(98) "PM2.5 fraction" means the fraction of PM2.5 to PM10 for each emissions unit that is included in the netting basis and PSEL.

(99) "Pollutant-specific emissions unit" means an emissions unit considered separately with respect to each regulated air pollutant.

(100) "Potential to emit" or "PTE" means the lesser of:

(a) The capacity of a stationary source; or

(b) The maximum allowable emissions taking into consideration any physical or operational limitation, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, if the limitation is enforceable by the Administrator.

(c) 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 and the regulations promulgated thereunder. Secondary emissions are not considered in determining the potential to emit.

(101) "Predictive emission monitoring system (PEMS)" means a system that uses process and other parameters as inputs to a computer program or other data reduction system to produce values in terms of the applicable emission limitation or standard.

(102) "Process Upset" means a failure or malfunction of a production process or system to operate in a normal and usual manner.

(103) "Proposed permit" means the version of an Oregon Title V Operating Permit that DEQ or a Regional Agency proposes to issue and forwards to the Administrator for review in compliance with OAR 340-218-0230.

(104) "Reference method" means any method of sampling and analyzing for an air pollutant as specified in 40 CFR Part 52, 60, 61 or 63.

(105) "Regional Agency" means Lane Regional Air Protection Agency.

(106) "Regulated air pollutant" or "Regulated Pollutant":

(a) Except as provided in subsections (b) and(c) of this section, means:

(A) Nitrogen oxides or any VOCs;

(B) Any pollutant for which a national ambient air quality standard has been promulgated, including any precursors to such pollutants;

(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;

(E) Any pollutant listed under OAR 340-244-0040 or 40 CFR 68.130; and

(F) Greenhouse Gases.

(b) As used in OAR 340 division 220, regulated pollutant means particulates, volatile organic compounds, oxides of nitrogen and sulfur dioxide.

(c) As used in OAR 340 division 224, regulated pollutant does not include any pollutant listed in divisions 244 and 246, unless the pollutant is listed in Table 2 (significant emission rates).

(107) "Renewal" means the process by which a permit is reissued at the end of its term.

(108) "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 DEQ or Lane Regional Air Protection Agency.

(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 there under are concerned; and

(B) The designated representative for any other purposes under the Oregon Title V Operating Permit program.

(109) "Secondary Emissions" means emissions that are a result of the construction and/or operation of a source or modification, but that 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 that would be constructed or would otherwise increase emissions as a result of the construction or modification of a source.

(110) "Section 111" means section 111 of the FCAA which includes Standards of Performance for New Stationary Sources (NSPS).

(111) "Section 111(d)" means subsection 111(d) of the FCAA which requires states to submit to the EPA plans that establish standards of performance for existing sources and provides for implementing and enforcing such standards.

(112) "Section 112" means section 112 of the FCAA which contains regulations for Hazardous Air Pollutants (HAP).

(113) "Section 112(b)" means subsection 112(b) of the FCAA which includes the list of hazardous air pollutants to be regulated.

(114) "Section 112(d)" means subsection 112(d) of the FCAA which 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.

(115) "Section 112(e)" means subsection 112(e) of the FCAA which directs the EPA to establish and promulgate emissions standards for categories and subcategories of sources that emit hazardous air pollutants.

(116) "Section 112(r)(7)" means subsection 112(r)(7) of the FCAA which requires the EPA to promulgate regulations for the prevention of accidental releases and requires owners or operators to prepare risk management plans.

(117) "Section 114(a)(3)" means subsection 114(a)(3) of the FCAA which requires enhanced monitoring and submission of compliance certifications for major sources.

(118) "Section 129" means section 129 of the FCAA which requires the EPA to establish emission standards and other requirements for solid waste incineration units.

(119) "Section 129(e)" means subsection 129(e) of the FCAA which requires solid waste incineration units to obtain Oregon Title V Operating Permits.

(120) "Section 182(f)" means subsection 182(f) of the FCAA which requires states to include plan provisions in the State Implementation Plan for NOx in ozone nonattainment areas.

(121) "Section 182(f)(1)" means subsection 182(f)(1) of the FCAA which requires states to apply those plan provisions developed for major VOC sources and major NOx sources in ozone nonattainment areas.

(122) "Section 183(e)" means subsection 183(e) of the FCAA which requires the EPA to study and develop regulations for the control of certain VOC sources under federal ozone measures.

(123) "Section 183(f)" means subsection 182(f) of the FCAA which requires the EPA to develop regulations pertaining to tank vessels under federal ozone measures.

(124) "Section 184" means section 184 of the FCAA which contains regulations for the control of interstate ozone air pollution.

(125) "Section 302" means section 302 of the FCAA which contains definitions for general and administrative purposes in the Act.

(126) "Section 302(j)" means subsection 302(j) of the FCAA which contains definitions of "major stationary source" and "major emitting facility."

(127) "Section 328" means section 328 of the FCAA which contains regulations for air pollution from outer continental shelf activities.

(128) "Section 408(a)" means subsection 408(a) of the FCAA which contains regulations for the Title IV permit program.

(129) "Section 502(b)(10) change" means a change which 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.

(130) "Section 504(b)" means subsection 504(b) of the FCAA which states that the EPA can prescribe by rule procedures and methods for determining compliance and for monitoring.

(131) "Section 504(e)" means subsection 504(e) of the FCAA which contains regulations for permit requirements for temporary sources.

(132) "Significant Air Quality Impact" means an additional ambient air quality concentration equal to or greater than in the concentrations listed in Table 1 of this rule. The threshold concentrations listed in Table 1 are used for comparison against the ambient air quality standard and do not apply for protecting PSD Class I increments or air quality related values (including visibility). For sources of VOC or NOx, a major source or major modification has a significant impact if it is located within the Ozone Precursor Distance defined in OAR 340-225-0020.

(133) "Significant Emission Rate" or "SER," except as provided in subsections (a) through(c) of this section, means an emission rate equal to or greater than the rates specified in Table 2 of this rule.

(a) For the Medford-Ashland Air Quality Maintenance Area, the Significant Emission Rate for PM10 is defined in Table 3.

(b) For regulated air pollutants not listed in Table 2 or 3 of this rule, the significant emission rate is zero unless DEQ determines the rate that constitutes a significant emission rate.

(c) Any new source or modification with an emissions increase less than the rates specified in Table 2 or 3 of this rule 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) is emitting at a significant emission rate. This provision does not apply to greenhouse gas emissions.

(134) "Significant Impairment" occurs when DEQ determines that visibility impairment interferes with the management, protection, preservation, or enjoyment of the visual experience within a Class I area. DEQ will make this determination on a case-by-case basis after considering the recommendations of the Federal Land Manager and the geographic extent, intensity, duration, frequency, and time of visibility impairment. These factors will be considered along with visitor use of the Class I areas, and the frequency and occurrence of natural conditions that reduce visibility.

(135) "Small scale local energy project" means:

(a) A system, mechanism or series of mechanisms located primarily in Oregon that directly or indirectly uses or enables the use of, by the owner or operator, renewable resources including, but not limited to, solar, wind, geothermal, biomass, waste heat or water resources to produce energy, including heat, electricity and substitute fuels, to meet a local community or regional energy need in this state;

(b) A system, mechanism or series of mechanisms located primarily in Oregon or providing substantial benefits to Oregon that directly or indirectly conserves energy or enables the conservation of energy by the owner or operator, including energy used in transportation;

(c) A recycling project;

(d) An alternative fuel project;

(e) An improvement that increases the production or efficiency, or extends the operating life, of a system, mechanism, series of mechanisms or project otherwise described in this section of this rule, including but not limited to restarting a dormant project;

(f) A system, mechanism or series of mechanisms installed in a facility or portions of a facility that directly or indirectly reduces the amount of energy needed for the construction and operation of the facility and that meets the sustainable building practices standard established by the State Department of Energy by rule; or

(g) A project described in subsections (a) to (f) of this section, whether or not the existing project was originally financed under ORS 470, together with any refinancing necessary to remove prior liens or encumbrances against the existing project.

(h) A project described in subsections (a) to (g) of this section that conserves energy or produces energy by generation or by processing or collection of a renewable resource.

(136) "Source" means any building, structure, facility, installation or combination thereof that emits or is capable of emitting air contaminants to the atmosphere, 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. The term includes all pollutant emitting activities that belong to a single major industrial group (i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987) or that support the major industrial group.

(137) "Source category":

(a) Except as provided in subsection (b) of this section, means all the pollutant emitting activities that belong to the same industrial grouping(i.e., that have the same two-digit code) as described in the Standard Industrial Classification Manual, (U.S. Office of Management and Budget, 1987).

(b) As used in OAR 340 division 220, Oregon Title V Operating Permit Fees, means a group of major sources that DEQ determines are using similar raw materials and have equivalent process controls and pollution control equipment.

(138) "Source Test" means the average of at least three test runs conducted in accordance with DEQ's Source Sampling Manual.

(139) "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.

(140) "State Implementation Plan" or "SIP" means the State of Oregon Clean Air Act Implementation Plan as adopted by the Commission under OAR 340-200-0040 and approved by EPA.

(141) "Stationary source" means any building, structure, facility, or installation at a source that emits or may emit any regulated air pollutant.

(142) "Substantial Underpayment" means the lesser of ten percent (10%) of the total interim emission fee for the major source or five hundred dollars.

(143) "Synthetic minor source" means a source that would be classified as a major source under OAR 340-200-0020, but for limits on its potential to emit air pollutants contained in a permit issued by DEQ under OAR 340 division 216 or 218.

(144) "Title I modification" means one of the following modifications pursuant to Title I of the FCAA:

(a) A major modification subject to OAR 340-224-0050, Requirements for Sources in Nonattainment Areas;

(b) A major modification subject to OAR 340-224-0060, Requirements for Sources in Maintenance Areas;

(c) A major modification subject to OAR 340-224-0070, Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas;

(d) A modification that is subject to a New Source Performance Standard under Section 111 of the FCAA; or

(e) A modification under Section 112 of the FCAA.

(145) "Total Reduced Sulfur" or "TRS" means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides present expressed as hydrogen sulfide(H2S).

(146) "Typically Achievable Control Technology" or "TACT" means the emission limit established on a case-by-case basis for a criteria pollutant from a particular emissions unit in accordance with OAR 340-226-0130. For existing sources, the emission limit established will be typical of the emission level achieved by emissions units similar in type and size. For new and modified sources, the emission limit established will be typical of the emission level achieved by well controlled new or modified emissions units similar in type and size that were recently installed. TACT determinations will be based on information known to DEQ while considering pollution prevention, impacts on other environmental media, energy impacts, capital and operating costs, cost effectiveness, and the age and remaining economic life of existing emission control equipment. DEQ may consider emission control technologies

typically applied to other types of emissions units where such technologies could be readily applied to the emissions unit. If an emission limitation is not feasible, a design, equipment, work practice, operational standard, or combination thereof, may be required.

(147) "Unassigned Emissions" means the amount of emissions that are in excess of the PSEL but less than the Netting Basis.

(148) "Unavoidable" or "could not be avoided" means events that 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.

(149) "Upset" or "Breakdown" means any failure or malfunction of any pollution control equipment or operating equipment that may cause excess emissions.

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

(151) "Volatile Organic Compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

(a) This includes any such organic compound except the following, which have been determined to have negligible photochemical reactivity in the formation of tropospheric ozone: methane; ethane; methylene chloride(dichloromethane); dimethyl carbonate, propylene carbonate, 1,1,1-trichloroethane(methyl chloroform); 1,1,2-trichloro-1,2,2-trifluoroethane(CFC-113); trichlorofluoromethane(CFC-11); dichlorodifluoromethane(CFC-12); chlorodifluoromethane(HCFC-22); trifluoromethane(HFC-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-143a); 1,1-difluoroethane (HFC-152a); parachlorobenzotrifluoride(PCBTF); cyclic, branched, or linear completely methylated siloxanes; acetone; perchloroethylene(tetrachloroethylene); 3,3-dichloro-1,1,1,2,2-pentafluoropropane(HCFC-225ca); 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb); 1,1,1,2,3,4,4,5,5,5-decafluoropentane HFC 43-10mee); difluoromethane(HFC-32); ethylfluoride(HFC-161); 1,1,1,3,3,3-hexafluoropropane(HFC-236fa); 1,1,2,2,3-pentafluoropropane(HFC-245ca); 1,1,2,3,3-pentafluoropropane(HFC-245ea); 1,1,1,2,3-pentafluoropropane(HFC-245eb); 1,1,1,3,3-pentafluoropropane(HFC-245fa); 1,1,1,2,3,3-hexafluoropropane(HFC-236ea); 1,1,1,3,3-pentafluorobutane(HFC-365mfc); chlorofluoromethane (HCFC-31); 1 chloro-1-fluoroethane(HCFC-151a); 1,2-dichloro-1,1,2-trifluoroethane(HCFC-123a); 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane(C4F9OCH3 or HFE-7100); 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane((CF3)2CFCF2OCH3); 1-ethoxy-1,1,2,2,3,3,4,4,4-

nonafluorobutane(C4F9OC2H5 or HFE-7200); 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF3)2CFCF2OC2H5); methyl acetate; 1,1,1,2,2,3,3-heptafluoro-3-methoxy-propane(n-C3F7OCH3, HFE-7000); 3-ethoxy-1,1,1,2,3, 4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane(HFE-7500); 1,1,1,2,3,3,3-heptafluoropropane(HFC 227ea); methyl formate (HCOOCH3); (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane(HFE-7300); and perfluorocarbon compounds that 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 DEQ's Source Sampling Manual, January, 1992. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC if the amount of such compounds is accurately quantified, and DEQ approves the exclusion.

(c) DEQ may require an owner or operator to provide monitoring or testing methods and results demonstrating, to DEQ's satisfaction, the amount of negligibly-reactive compounds in the source's emissions.

(d) The following compound(s) are VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and must be uniquely identified in emission reports, but are not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

(152) "Year" means any consecutive 12 month period of time.

[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]

Stat. Auth.: ORS 468.020, 468A.025, 468A.035, 468A.055 & 468A.070
Stats. Implemented: ORS 468A.025 & 468A.035
Hist.: [DEQ 15-1978, f. & ef. 10-13-78; DEQ 4-1993, f. & cert. ef. 3-10-93; 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 340-020-0033.04; 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; DEQ 2-1992, f. & cert. ef. 1-30-92; DEQ 7-1992, f. & cert. ef. 3-30-92; DEQ 27-1992, f. & cert. ef. 11-12-92; DEQ 4-1993,

f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0145, 340-020-0225, 340-020-0305, 340-020-0355, 340-020-0460 & 340-020-0520; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 24-1994, f. & cert. ef. 10-28-94; DEQ 10-1995, f. & cert. ef. 5-1-95; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 16-1998, f. & cert. ef. 9-23-98; DEQ 21-1998, f. & cert. ef. 10-14-98; DEQ 1-1999, f. & cert. ef. 1-25-99; DEQ 6-1999, f. & cert. ef. 5-21-99]; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0205, 340-028-0110; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 2-2005, f. & cert. ef. 2-10-05; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 5-2010, f. & cert. ef. 5-21-10; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; Administrative correction 3-29-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 11-2013, f. & cert. ef. 11-7-13

State of Oregon Department of Environmental Quality

Significant Air Quality Impact

Table 1 – OAR 340-200-0020

Pollutant	Averaging Time	Air Quality Area Designation		
		Class I	Class II	Class III
SO_2 ($\mu g/m^3$)*	Annual	0.10	1.0	1.0
	24-hour	0.20	5.0	5.0
	3-hour	1.0	25.0	25.0
	1-hour	---	8.0	---
PM_{10} ($\mu g/m^3$)	Annual	0.20	0.2	0.2
	24-hour	0.30	1.0	1.0
$PM_{2.5}$ ($\mu g/m^3$)	Annual	0.06	0.3	0.3
	24-hour	0.07	1.2	1.2
NO_2 ($\mu g/m^3$)	Annual	0.10	1.0	1.0
	1-hour	---	8.0	---
CO (mg/m^3)**	8-hour	---	0.5	0.5
	1-hour	---	2.0	2.0

*micrograms/cubic meter

State of Oregon Department of Environmental Quality

Significant Air Quality Impact

Table 1 – OAR 340-200-0020

** milligrams/cubic meter

State of Oregon Department of Environmental Quality

Significant Emission Rates

Table 2 – OAR 340-200-0020

Pollutant	Emission Rate
Greenhouse Gases (CO_2e)	75,000 tons/year
Carbon Monoxide	100 tons/year
Nitrogen Oxides (NO_X)	40 tons/year
Particulate Matter	25 tons/year
PM_{10}	15 tons/year
Direct $PM_{2.5}$	10 tons/year
$PM_{2.5}$ precursors (SO_2 or NO_X)	40 tons/year
Sulfur Dioxide (SO_2)	40 tons/year
Volatile Organic Compounds (VOC)	40 tons/year
Ozone precursors (VOC or NO_X)	40 tons/year
Lead	0.6 ton/year
Fluorides	3 tons/year
Sulfuric Acid Mist	7 tons/year
Hydrogen Sulfide	10 tons/year
Total Reduced Sulfur (including hydrogen sulfide)	10 tons/year
Reduced sulfur compounds (including hydrogen sulfide)	10 tons/year
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p- dioxins and	0.0000035 ton/year
Municipal waste combustor metals (measured as particulate matter)	15 tons/year
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride)	40 tons/year
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	50 tons/year

State of Oregon Department of Environmental Quality

Significant Emission Rates for the Medford-Ashland Air Quality Maintenance Area

Table 3 – OAR 340-200-0020

Air Contaminant	Emission Rate	
	Annual	**Day**
PM_{10}	(5.0 tons)	(50.0 lbs.)

State of Oregon Department of Environmental Quality

De Minimis Emission Levels

Table 4 – OAR 340-200-0020(33)

Pollutant	De minimis (tons/year, except as noted)
Greenhouse Gases (CO2e)	2,756
CO	1
NO_X	1
SO_2	1
VOC	1
PM	1
PM_{10} (except Medford AQMA)	1
$PM_{10}/PM_{2.5}$ (Medford AQMA)	0.5 [5.0 lbs/day]
Direct $PM_{2.5}$	1
Lead	0.1
Fluorides	0.3
Sulfuric Acid Mist	0.7
Hydrogen Sulfide	1
Total Reduced Sulfur (including hydrogen sulfide)	1
Reduced Sulfur	1
Municipal waste combustor organics (Dioxin and furans)	0.0000005
Municipal waste combustor metals	1
Municipal waste combustor acid gases	1
Municipal solid waste landfill gases	1
Single HAP	1
Combined HAP (aggregate)	1

State of Oregon Department of Environmental Quality

Generic PSELS

Table 5 – OAR 340-200-0020(60)

Pollutant	Generic PSEL (tons/year, except as noted)
GreenhouseGases (CO2e)	74,000
CO	99
NO_X	39
SO_2	39
VOC	39
PM	24
PM_{10} (except Medford AQMA)	14
$PM_{10}/PM_{2.5}$ (Medford AQMA)	4.5 [49 lbs/day]
Direct $PM_{2.5}$	9
Lead	0.5
Fluorides	2
Sulfuric Acid Mist	6
Hydrogen Sulfide	9
Total Reduced Sulfur (including hydrogen sulfide)	9
Reduced Sulfur	9
Municipal waste combustor organics (Dioxin and furans)	0.0000030
Municipal waste combustor metals	14
Municipal waste combustor acid gases	39
Municipal solid waste landfill gases	49
Single HAP	9
Combined HAPs (aggregate)	24

DIVISION 216

AIR CONTAMINANT DISCHARGE PERMITS

340-216-8010

Table 1 — Activities and Sources

[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]

Stat. Auth.: ORS 468.020
Stats. Implemented: ORS 468A
Hist.: DEQ 9-2014, f. & cert. ef. 6-26-14

Oregon Department of Environmental Quality

Table 1 – 340-216-8010

Activities and Sources

Part A

The following commercial and industrial sources must obtain a Basic ACDP under the procedures in OAR 340-216-0056 unless the source is required to obtain a different form of ACDP by Part B or C hereof: (Production and emission parameters are based on the latest consecutive 12 month period, or future projected operation, whichever is higher. Emission cutoffs are based on actual emissions.)

1. Autobody Repair or Painting Shops painting more than 25 automobiles in a year. [1]
2. Concrete Manufacturing including Redimix and CTB more than 5,000 but less than 25,000 cubic yards per year output.
3. Crematory and Pathological Waste Incinerators with less than 20 tons/yr. material input.
4. Natural gas and propane fired boilers (with or without #2 diesel oil back-up[2]) of 10 or more MMBTU but less than 30 MMBTU/hr heat input constructed after June 9, 1989.
5. Prepared feeds for animals and fowl and associated grain elevators more than 1,000 tons/yr. but less than 10,000 tons per year throughput.
6. Rock, Concrete or Asphalt Crushing both portable and stationary more than 5,000 tons/yr. but less than 25,000 tons/yr. crushed.
7. Surface coating operations whose actual or expected usage of coating materials is greater than 250 gallons per month, excluding sources that exclusively use non-VOC and non-HAP containing coatings (e.g. powder coating operations).

[1] Portland AQMA only

[2] "back-up" means less than 10,000 gallons of fuel per year

Part B

The following commercial and industrial sources must obtain either:

- a General ACDP, if one is available for the source classification and the source qualifies for a General ACDP under the procedures in OAR 340-216-0060;
- a Simple ACDP under the procedures in OAR 340-216-0064; or
- a Standard ACDP under the procedures in OAR 340-216-0066 if the source fits one of the criteria of Part C hereof.

1. Aerospace or Aerospace Parts Manufacturing
2. Aluminum, Copper, and Other Nonferrous Foundries subject to an Area Source NESHAP
3. Aluminum Production - Primary
4. Ammonia Manufacturing
5. Animal Rendering and Animal Reduction Facilities
6. Asphalt Blowing Plants
7. Asphalt Felts or Coating
8. Asphaltic Concrete Paving Plants both stationary and portable
9. Bakeries, Commercial over 10 tons of VOC emissions per year
10. Battery Separator Manufacturing
11. Battery Manufacturing and Re-manufacturing
12. Beet Sugar Manufacturing
13. Boilers and other Fuel Burning Equipment over 10 MMBTU/hr. heat input, except exclusively Natural Gas and Propane fired units (with or without #2 diesel backup) under 30 MMBTU/hr. heat input
14. Building paper and Buildingboard Mills
15. Calcium Carbide Manufacturing
16. Can or Drum Coating [2]
17. Cement Manufacturing
18. Cereal Preparations and Associated Grain Elevators 10,000 or more tons/yr. throughput [1]
19. Charcoal Manufacturing
20. Chlorine and Alkalies Manufacturing
21. Chrome Plating
22. Clay Ceramics Manufacturing subject to an Area Source NESHAP
23. Coffee Roasting (roasting 30 or more tons per year)
24. Concrete Manufacturing including Redimix and CTB 25,000 or more cubic yards per year output
25. Crematory and Pathological Waste Incinerators 20 or more tons/yr. material input
26. Degreasers (halogenated solvents subject to a NESHAP)
27. Electrical Power Generation from combustion, excluding units used exclusively as emergency generators and units less than 500 kW

28. Ethylene - Commercial Ethylene Oxide Sterilization, excluding facilities using less than 1 ton of ethylene oxide within all consecutive 12-month periods after December 6, 1996
29. Ferroalloy Production Facilities subject to an Area Source NESHAP
30. Flatwood Coating regulated by Division 232 [2]
31. Flexographic or Rotogravure Printing subject to RACT [2]
32. Flour, Blended and/or Prepared and Associated Grain Elevators 10,000 or more tons/yr. throughput [1]
33. Galvanizing and Pipe Coating (except galvanizing operations that use less than 100 tons of zinc/yr.)
34. Gasoline Bulk Plants, Bulk Terminals, and Pipeline Facilities
35. Gasoline dispensing facilities, excluding gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline per month [3]
36. Glass and Glass Container Manufacturing
37. Grain Elevators used for intermediate storage 10,000 or more tons/yr. throughput [1]
38. Grain terminal elevators
39. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified)
40. Gypsum Products Manufacturing
41. Hardboard Manufacturing (including fiberboard)
42. Hospital sterilization operations subject to an Area Source NESHAP
43. Incinerators with two or more ton per day capacity
44. Lime Manufacturing
45. Liquid Storage Tanks subject to OAR Division 232 [2]
46. Magnetic Tape Manufacturing
47. Manufactured and Mobile Home Manufacturing
48. Marine Vessel Petroleum Loading and Unloading
49. Metal Fabrication and Finishing Operations subject to an Area Source NESHAP, excluding facilities that meet all the following:
    a. Do not perform any of the operations listed in OAR 340-216-0060(2)(b)(Y)(i) through (iii);
    b. Do not perform shielded metal arc welding (SMAW) using metal fabrication and finishing hazardous air pollutant (MFHAP) containing wire or rod; and
    c. Use less than 100 pounds of MFHAP containing welding wire and rod per year
50. Millwork (including kitchen cabinets and structural wood members) 25,000 or more bd. ft./maximum 8 hr. input
51. Molded Container
52. Motor Coach Manufacturing
53. Motor Vehicle and Mobile Equipment Surface Coating Operations subject to an Area Source NESHAP, excluding motor vehicle surface coating operations painting less than 10 vehicles per year or using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, mobile equipment surface coating operations using less than 20 gallons of coating and 20 gallons of methylene

chloride containing paint stripper per year, and motor vehicle surface coating operations registered pursuant to OAR 340-210-0100(2)

54. Natural Gas and Oil Production and Processing and associated fuel burning equipment
55. Nitric Acid Manufacturing
56. Non-Ferrous Metal Foundries 100 or more tons/yr. of metal charged
57. Organic or Inorganic Chemical Manufacturing and Distribution with ½ or more tons per year emissions of any one criteria pollutant (sources in this category with less than ½ ton/yr. of each criteria pollutant are not required to have an ACDP)
58. Paint and Allied Products Manufacturing subject to an Area Source NESHAP
59. Paint Stripping and Miscellaneous Surface Coating Operations subject to an Area Source NESHAP, excluding paint stripping and miscellaneous surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year
60. Paper or other Substrate Coating [2]
61. Particleboard Manufacturing (including strandboard, flakeboard, and waferboard)
62. Perchloroethylene Dry Cleaning Operations subject to an Area Source NESHAP, excluding perchloroethylene dry cleaning operations registered pursuant to OAR 340-210-0100(2)
63. Pesticide Manufacturing 5,000 or more tons/yr. annual production
64. Petroleum Refining and Re-refining of Lubricating Oils and Greases including Asphalt Production by Distillation and the reprocessing of oils and/or solvents for fuels
65. Plating and Polishing Operations subject to an Area Source NESHAP
66. Plywood Manufacturing and/or Veneer Drying
67. Prepared Feeds Manufacturing for animals and fowl and associated grain elevators 10,000 or more tons per year throughput
68. Primary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
69. Pulp, Paper and Paperboard Mills
70. Rock, Concrete or Asphalt Crushing both portable and stationary 25,000 or more tons/yr. crushed
71. Sawmills and/or Planing Mills 25,000 or more bd. ft./maximum 8 hr. finished product
72. Secondary Nonferrous Metals Processing subject to an Area Source NESHAP
73. Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
74. Seed Cleaning and Associated Grain Elevators 5,000 or more tons/yr. throughput [1]
75. Sewage Treatment Facilities employing internal combustion for digester gasses
76. Soil Remediation Facilities stationary or portable
77. Steel Works, Rolling and Finishing Mills
78. Surface Coating in Manufacturing subject to RACT [2]
79. Surface Coating Operations with actual emissions of VOCs before add on controls of 10 or more tons/yr.
80. Synthetic Resin Manufacturing
81. Tire Manufacturing
82. Wood Furniture and Fixtures 25,000 or more bd. ft./maximum 8 hr. input

83. Wood Preserving (excluding waterborne)

84. All Other Sources not listed herein that DEQ determines an air quality concern exists or one that would emit significant malodorous emissions

85. All Other Sources not listed herein that would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons a year of PM10 if located in a PM10 non-attainment or maintenance area, or 10 or more tons of any single criteria pollutant in any part of the state

[1] Applies only to Special Control Areas

[2] Portland AQMA, Medford-Ashland AQMA or Salem SKATS only

[3] "monthly throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during a month. Monthly throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the month, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the previous 11 months, and then dividing that sum by 12

Part C

The following sources must obtain a Standard ACDP under the procedures in OAR 340- 216-0066:

1. Incinerators for PCBs and / or other hazardous wastes
2. All Sources that DEQ determines have emissions that constitute a nuisance
3. All Sources electing to maintain the source's baseline emission rate, or netting basis
4. All Sources subject to a RACT, BACT, LAER, NESHAP adopted in OAR 340-244-0220, NSPS adopted in OAR 340-238-0060, State MACT, or other significant Air Quality regulation(s), except:

a. Source categories for which a General ACDP has been issued.

b. Sources with less than 10 tons/yr. actual emissions that are subject to RACT, NSPS adopted in OAR 340-238-0060 or a NESHAP adopted in OAR 340-244-0220 that qualify for a Simple ACDP.

c. Sources registered pursuant to OAR 340-210-0100(2).

d. Electrical power generation units used exclusively as emergency generators and units less than 500 kW.

e. Gasoline dispensing facilities, provided the gasoline dispensing facility has monthly throughput of less than 10,000 gallons of gasoline per month

f. Motor vehicle surface coating operations painting less than 10 vehicles per year or using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, mobile equipment surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, and motor vehicle surface coating operations registered pursuant to OAR 340-210-0100(2).

g. Paint stripping and miscellaneous surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year

h. Commercial ethylene oxide sterilization operations using less than 1 ton of ethylene oxide within all consecutive 12-month periods after December 6, 1996.

i. Metal fabrication and finishing operations that meet all the following:

A. Do not perform any of the operations listed in OAR 340-216-0060(2)(b)(Y)(i) through (iii); B. Do not perform shielded metal arc welding (SMAW) using metal fabrication and finishing hazardous air pollutant (MFHAP) containing wire or rod; and

C. Use less than 100 pounds of MFHAP containing welding wire and rod per year.

j. Chemical manufacturing facilities that do not transfer liquids containing organic HAP listed in Table 1 of 40 CFR part 63 subpart VVVVVV to tank trucks or railcars and are not subject to emission limits in Table 2, 3, 4, 5, 6, or 8 of 40 CFR part 63 subpart VVVVVV.

k. Prepared feeds manufacturing facilities with less than 10,000 tons per year throughput.

~~5. All sources having the Potential to Emit more than 100,000 tons CO2e of GHG emissions in a year.~~

56. All Sources having the Potential to Emit more than 100 tons of any regulated air contaminant, except GHG, in a year

67. All Sources having the Potential to Emit more than 10 tons of a single hazardous air pollutant in a year

78. All Sources having the Potential to Emit more than 25 tons of all hazardous air pollutants combined in a year

DIVISION 224

MAJOR NEW SOURCE REVIEW

340-224-0010

Applicability and General Prohibitions

(1) Within designated nonattainment and maintenance areas, this division applies to owners and operators of proposed major sources and major modifications for the regulated pollutant(s) for which the area is designated nonattainment or maintenance.

(2) Within attainment and unclassifiable areas, this division applies to owners and operators of proposed federal major sources and major modifications at federal major sources for the regulated pollutant(s) for which the area is designated attainment or unclassified.

(3) Owners and operators of sources that do not meet the applicability criteria of sections (1) or (2) of this rule are subject to other Department rules, including Highest and Best Practicable Treatment and Control Required (OAR 340-226-0100 through 340-226-0140), Notice of Construction and Approval of Plans (340-210-0205 through 340-210-0250), ACDPs (OAR 340 division 216), Emission Standards for Hazardous Air Contaminants (OAR 340 division 244), and Standards of Performance for New Stationary Sources (OAR 340 division 238).

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

(5) Beginning May 1, 2011, the pollutant GHGs is subject to regulation if:

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

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

~~(6) Beginning July 1, 2011, in addition to the provisions in section (5) of this rule, the pollutant GHGs shall also be subject to regulation at:~~

~~(a) A new federal major source; or~~

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

(6~~7~~) Subject to the requirements in this division, the Lane Regional Air Protection Agency is designated by the Commission as the permitting agency to implement the Oregon Major New

Source Review program within its area of jurisdiction. The Regional Agency's program is subject to Department oversight. The requirements and procedures contained in this division pertaining to the Major New Source Review program shall be used by the Regional Agency to implement its permitting program until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.

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

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