

emission units that have already been constructed or modified. New major sources and major modifications must also provide an analysis of air quality impacts, including ambient air quality monitoring, in accordance with the requirements of Division 225 (see section III.C.10 below). New major sources and major modifications that significantly impact a PM-10 maintenance area must also meet the requirements of OAR 340-224-0060(2) Air Quality Protection. Finally, the rules include provisions for temporary and portable major sources, and for temporary construction related emissions. The rules also clarify how fugitive emissions and secondary emissions are counted for applicability purposes and for inclusion in ambient impact analyses.

The current SIP-approved rules exempt new major sources and major modifications that are not Federal major sources from the requirements of BACT, pre-application and post-construction air quality monitoring, and the additional impacts analysis. This exemption was only available if the source demonstrated that it did not cause or contribute to any violation of a NAAQS or PSD increment. The current SIP-approved rules did not exempt any new major source or major modification from the Class I area provisions of the rules. The revised rules exempt new major sources and major modifications that are not Federal major sources from all of the PSD requirements, including the Class I area provisions. Furthermore, the revised rules do not include the eligibility criteria regarding violations of the NAAQS and PSD increments. Although these changes will have the effect of relaxing the ODEQ major source NSR rule, EPA believes that they are approvable. First, a State is not required to apply PSD requirements to sources which are not Federal major sources. Second, ODEQ's permit to construct program for non-Federal major sources still complies with EPA's requirements in 40 CFR 51.160 through 51.164 and ensures that new and modified major sources will not cause or contribute to violations of any NAAQS.

#### d. State-Federal Relationship in New Source Review

In approving the Oregon new source review rules, EPA recognizes that it has a responsibility to insure that all States properly implement their preconstruction permitting programs. EPA's approval of the Oregon new source review rules does not divest EPA of the duty to continue appropriate oversight to insure that permits issued

by Oregon are consistent with the requirements of the Act, EPA regulations, and the SIP. EPA's authority to oversee permit program implementation is set forth in sections 113, 167, and 505(b) of the Act. For example, section 167 provides that EPA shall issue administrative orders, initiate civil actions, or take whatever other enforcement action may be necessary to prevent construction of a major stationary source that does not "conform to the requirements of" the PSD program. Similarly, section 113(a)(5) of the CAA provides for administrative orders and civil actions whenever EPA finds that a State "is not acting in compliance with" any requirement or prohibition of the CAA regarding construction of new or modified sources. Likewise, section 113(a)(1) provides for a range of enforcement remedies whenever EPA finds that a person is in violation of an applicable implementation plan.

Enactment of title V of the CAA and the EPA objection opportunity provided therein has added new tools for addressing deficient new source review decisions by States. Section 505(b) requires EPA to object to the issuance of a permit issued pursuant to title V whenever the Administrator finds during the applicable review period, either on her own initiative or in response to a citizen petition, that the permit is "not in compliance with the requirements of an applicable requirement of this Act, including the requirements of an applicable implementation plan."

Regardless of whether EPA addresses deficient permits using objection authorities or enforcement authorities or both, EPA cannot intervene unless the State decision fails to comply with applicable requirements. In determining whether a title V permit incorporating PSD or part D NSR provisions calls for EPA objection under section 505(b) or use of enforcement authorities under sections 113 and 167, EPA will consider whether the applicable substantive and procedural requirements for public review and development of supporting documentation were followed. In particular, EPA will review the process followed by the permitting authority in determining BACT or LAER, assessing air quality impacts, meeting Class I area requirements, and other PSD or Part D requirements, to ensure that the required SIP procedures (including public participation and Federal Land Manager consultation opportunities) were met. EPA will also review whether any determination by the permitting authority was made on reasonable grounds properly supported on the

record, described in enforceable terms, and consistent with all applicable requirements. Finally, EPA will review whether the terms of the PSD or Part D NSR permit were properly incorporated into the title V operating permit.

#### 10. Division 225, Air Quality Analysis Requirements

This new Division contains all of the modeling, monitoring, impact analysis, and net air quality benefit requirements that are necessary to ensure ambient air quality requirements are met in the permitting process. These requirements were previously located in Division 224. The Division also includes new provisions which specify the technical information and processes to be used in air quality impact analyses.

The Division includes sections that: (1) Specify the information required to be submitted in permit applications; (2) require compliance with EPA's Guidelines on Air Quality Models (40 CFR part 51, appendix W); (3) establish requirements for demonstrating compliance with the ambient air quality ceilings, standards and increments in maintenance areas; (4) establish the requirements for demonstrating compliance with standards and increments in Class II and Class III areas, including the requirements for pre-application and post-construction monitoring; (5) establish requirements for demonstrating compliance with standards and increments in Class I areas; (6) establish requirements for demonstration compliance with air quality related values (including visibility) protection; and (7) establish the requirements for demonstrating that offsets provide for a net air quality benefit.

The provisions for air quality impact analyses for Class I, Class II, and Class III areas comply with EPA's requirements for SIP PSD programs (40 CFR 51.166) for air quality impact analyses and with EPA's requirements for visibility protection (40 CFR 51.307). The provisions for Class I areas and the provisions for protection of air quality related values (including visibility) also conform to the Federal Land Manager recommendations in the FLAG Report. Importantly, the provisions for Class I areas include PSD Class I Significant Impact levels that are the same as those EPA has proposed for 40 CFR 51.166 and 52.21 (61 FR 38250, July 23, 1996). EPA is therefore approving these provisions, including the Class I area significant impact levels, as a revision to the Oregon permitting program.

The provisions for demonstrating net air quality benefit comply with the CAA and EPA's requirements for emission