

LANE REGIONAL AIR PROTECTION AGENCY

TITLE 42

STATIONARY SOURCE PLANT SITE EMISSION LIMITS

Section 42-0010 Policy

LRAPA recognizes the need to establish a more definitive method for regulating increases and decreases in air emissions of permit holders. However, except as needed to protect ambient air quality standards, PSD increments and visibility, LRAPA does not intend to: limit the use of existing production capacity of any air quality permittee; cause any undue hardship or expense to any permittee who wishes to use existing unused productive capacity; or create inequity within any class of permittees subject to specific industrial standards that are based on emissions related to production.

Section 42-0020 Applicability

- (1) Plant Site Emission Limits (PSELs) will be included in all Air Contaminant Discharge Permits (ACDP) and LRAPA Title V Operating Permits, except as provided in section 42-0020(3), as a means of managing airshed capacity by regulating increases and decreases in air emissions. Except as provided in subsection 42-0035(5) and section 42-0060, all ACDP and LRAPA Title V Operating Permit sources are subject to PSELs for all regulated pollutants listed in the definition of SER in title 12. LRAPA will incorporate PSELs into permits when issuing a new permit or renewing or modifying an existing permit.
- (2) The emissions limits established by PSELs provide the basis for:
 - (a) Assuring reasonable further progress toward attaining compliance with ambient air quality standards;
 - (b) Assuring compliance with ambient air quality standards and PSD increments;
 - (c) Administering offset and banking programs; and
 - (d) Establishing the baseline for tracking the consumption of PSD Increments.
- (3) PSELs are not required for:
 - (a) Regulated pollutants that will be emitted at less than the de minimis emission level listed in LRAPA title 12 from the entire source;
 - (b) Short Term Activity and Basic ACDPs;
 - (c) Hazardous air pollutants as listed in title 44 Table 1; high-risk pollutants listed in 40 CFR 63.74; accidental release substances listed in 40 CFR 68.130; toxic air

contaminants listed in OAR chapter 340, division 246; or toxic air contaminants listed in OAR chapter 340, division 247; except that PSELS are required for pollutants identified in this subsection that are also listed in the definition of SER, title 12; or

- (d) General ACDPs or General Oregon Title V Operating Permits where federally enforceable limits on potential to emit, such as a physical or operational limit, are used rather than a PSEL.

Section 42-0030 Definitions

The definitions in title 12, section 29-0010 and this section apply to this title. If the same term is defined in this section and title 12 or section 29-0010, the definition in this section applies to this title.

Criteria for Establishing Plant Site Emission Limits

Section 42-0035 General Requirements for Establishing All PSELS

- (1) PSELS may not exceed limits established by any applicable federal or state regulation or by any specific permit conditions unless the source meets the specific provisions of section 32-100 (Alternative Emission Controls).
- (2) LRAPA may change PSELS at the time of a permit renewal, or if LRAPA modifies a permit pursuant to section 37-0084, Agency Initiated Modifications, or OAR 340-218-0200, Reopenings, if:
 - (a) LRAPA determines errors were made in calculating the PSELS or more accurate and reliable data is available for calculating PSELS; or
 - (b) More stringent control is required by a rule adopted by the Board or EQC.
- (3) PSEL reductions required by rule, order or permit condition will be effective on the compliance date of the rule, order, or permit condition.
- (4) Annual PSELS apply on a rolling 12-consecutive month basis and limit the source's potential to emit.
- (5) PSELS do not include emissions from categorically insignificant activities. Emissions from categorically insignificant activities must be considered when determining Major NSR or Type A State NSR applicability under title 38.
- (6) PSELS must include aggregate insignificant emissions, if applicable. Emissions from aggregate insignificant activities must be considered when determining Major NSR or State NSR applicability under title 38.

Section 42-0041 Annual PSEL

- (1) For sources subject to a General ACDP or a General LRAPA Title V Operating Permit a PSEL may be set based on the potential to emit of the largest emitting source in that source category for all sources on that permit type in the state. PSELs will be set for all regulated pollutants emitted at more than the de minimis emission level..
- (2) For sources subject to a Simple ACDP, a PSEL will be set equal to the source's potential to emit.
- (3) For sources subject to a Standard ACDP or an LRAPA Title V Operating Permit, a PSEL will be set equal to the source's potential to emit, netting basis or a level requested by the applicant, whichever is less, except as provided in subsection (4) or (5).
- (4) The initial PSEL for PM_{2.5} for a source that was permitted on or before May 1, 2011 with potential to emit greater than or equal to the SER will be set equal to the PM_{2.5} fraction of the PM₁₀ PSEL in effect on May 1, 2011.
 - (a) Any source with a permit in effect on May 1, 2011 is eligible for an initial PM_{2.5} PSEL without being otherwise subject to subsection 42-0041(5).
 - (b) For a source that had a permit in effect on May 1, 2011 but later needs to correct its PM₁₀ PSEL that was in effect on May 1, 2011 due to more accurate or reliable information, the corrected PM₁₀ PSEL will be used to correct the initial PM_{2.5} PSEL.
 - (A) Correction of a PM₁₀ PSEL will not by itself trigger subsection 42-0041(5) for PM_{2.5}.
 - (B) Correction of a PM₁₀ PSEL could result in further requirements for PM₁₀ in accordance with all applicable regulations.
 - (c) If after establishing the initial PSEL for PM_{2.5} in accordance with this rule and establishing the initial PM_{2.5} netting basis in accordance with section 42-0046, the PSEL is more than nine (9) tons above the netting basis, any future increase in the PSEL for any reason would be subject to subsection 42-0041(5).
- (5) If an applicant wants an annual PSEL at a rate greater than the netting basis, the applicant must, consistent with section 42-0035:
 - (a) Demonstrate that the requested increase over the netting basis is less than the SER; or
 - (b) For increases equal to or greater than the SER over the netting basis, demonstrate that the applicable Major NSR or State NSR requirements in title 38 have been satisfied, except that:
 - (A) An increase in the PSEL for GHGs is subject to the requirements of NSR specified in paragraph 38-0010(1)(c) only if the criteria in paragraph 38-

0010(1)(c) are met; and

- (B) An increase in the PSEL for particulate matter (PM) is not subject to the air quality analysis but an air quality analysis is required for PM₁₀ or PM_{2.5} increases, if applicable.
- (6) If the netting basis is adjusted in accordance with subsection 42-0051(3), then the PSEL is not required to be adjusted.
 - (7) For sources that meet the criteria in paragraphs (a), (b) and (c), the requirements of subsection 42-0041(5) do not immediately apply, but any future increase in the PSEL greater than or equal to the de minimis level for any reason is subject to subsection 42-0041(5).
 - (a) A PSEL is established or revised to include emissions from activities that both existed at a source and were defined as categorically insignificant activities prior to January 11, 2018;
 - (b) The PSEL exceeds the netting basis by more than or equal to the SER solely as a result of a revision described in paragraph (a); and
 - (c) The source would not have been subject to Major NSR or Type A State NSR under the applicable requirements of title 38 prior to January 11, 2018 if categorically insignificant activities had been considered.

Section 42-0042 Short Term PSEL

- (1) For sources located in areas with an established short term SER that is measured over an averaging period less than a full year, PSELs are required on a short term basis for those regulated pollutants that have a short term SER. The short term averaging period is daily, unless emissions cannot be monitored on a daily basis. The averaging period for short term PSELs can never be greater than monthly.
 - (a) For new and existing sources with potential to emit less than the short term SER, the short term PSEL will be set equal to the short term potential to emit.
 - (b) For existing sources with potential to emit greater than or equal to the short term SER, a short term PSEL will be set equal to the source's short term potential to emit or to the current permit's short term PSEL, whichever is less.
 - (c) For new sources with potential to emit greater than or equal to the short term SER, the initial short term PSEL will be set at the level requested by the applicant provided the applicant meets the requirements of paragraph (2)(b).
- (2) If a permittee requests an increase in a short term PSEL that will exceed the short term netting basis by an amount equal to or at a rate greater than the initial short term SER, the permittee must satisfy the requirements of paragraphs (a) or (b). In order to satisfy the requirements of paragraph (a) or (b), the short term PSEL increase must first be

converted to an annual increase by multiplying the short term increase by 8,760 hours, 365 days, or 12 months, depending on the term of the short term PSEL.

- (a) Obtain offsets in accordance with the offset provisions for the designated area as specified in sections 38-0510 through 38-0530, as applicable; or
 - (b) Obtain an allocation from an available growth allowance in accordance with the applicable maintenance plan.
- (3) Once the short term PSEL is increased pursuant to subsection (2), the increased level becomes the basis initial for evaluating future increases in the short term PSEL.

Section 42-0046 Netting Basis

- (1) A netting basis will only be established for those regulated pollutants that could subject a source to NSR under title 38.
- (a) The initial PM_{2.5} netting basis 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.
 - (b) The initial greenhouse gas netting basis 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.
- (2) A source's netting basis is established as specified in paragraph (a), (b), or (c) and will be adjusted according to subsection (3):
- (a) For all regulated pollutants except for PM_{2.5}, a source's initial netting basis is equal to the baseline emission rate.
 - (b) For PM_{2.5}, a source's initial netting basis is equal to the overall PM_{2.5} fraction of the PM₁₀ PSEL in effect on May 1, 2011 multiplied by the PM₁₀ netting basis in effect on May 1, 2011. LRAPA may increase the initial PM_{2.5} netting basis by not more than five (5) tons to ensure that the PM_{2.5} PSEL does not exceed the PM_{2.5} netting basis by more than the PM_{2.5} SER.
 - (A) Any source with a permit in effect on May 1, 2011 is eligible for a PM_{2.5} netting basis without being otherwise subject to subsection 42-0041(5).
 - (B) For a source that had a permit in effect on May 1, 2011 but later needs to correct its PM₁₀ netting basis that was in effect on May 1, 2011, due to more accurate or reliable information, the corrected PM₁₀ netting basis will be used to correct the initial PM_{2.5} netting basis.
 - (i) Correction of a PM₁₀ netting basis will not by itself trigger subsection 42-0041(5) for PM_{2.5}.

- (ii) Correction of a PM₁₀ netting basis could result in further requirements for PM₁₀ in accordance with all applicable regulations.
- (c) A source's netting basis is zero (0) for:
 - (A) Any regulated pollutant emitted from a source that first obtained a permit to construct and operate after the applicable baseline period for that regulated pollutant, and has not undergone NSR for that regulated pollutant except as provided in paragraph (2)(b) for PM_{2.5};
 - (B) Any regulated pollutant for which the PSEL was set based on a generic PSEL under previously applicable rules; or
 - (C) Any source permitted as portable.
- (3) A source's netting basis will be adjusted as follows:
 - (a) The netting basis will be reduced by any emission reductions required under a rule, order, or permit condition issued by the Board or LRAPA and required by the SIP or used to avoid any state (e.g., NSR) or federal requirements (e.g., NSPS, NESHAP), as of the effective date of the rule, order or permit condition;
 - (A) Netting basis reductions are effective on the effective date of the rule, order or permit condition that requires the reductions;
 - (B) Netting basis reductions may only apply to sources that are permitted, on the effective date of the applicable rule, order or permit condition, to operate the affected devices or emissions units that are subject to the rule, order, or permit condition requiring emission reductions;
 - (C) Netting basis reductions will include reductions for unassigned emissions for devices or emissions units that are affected by the rule, order or permit condition, if the shutdown or over control that created the unassigned emissions occurred within five (5) years prior to the adoption of the rule, order or permit condition that required an emission reduction unless the unassigned emissions have been used for internal netting actions. This provision applies to emission reductions that have been placed in unassigned emissions or that are eligible to be placed in unassigned emissions but the permit that would place them in unassigned emissions has not been issued.
 - (D) Netting basis reductions will not affect emission reduction credits established under title 41.
 - (E) Netting basis reductions for the affected devices or emissions units will be determined consistent with the approach used to determine the netting basis prior to the regulatory action reducing the emissions. The netting

basis reduction is the difference between the emissions calculated using the previous emission rate and the emission rate established by rule, order, or permit using appropriate conversion factors when necessary.

- (F) The netting basis reductions will not include emissions reductions achieved under sections 32-006, 32-007, or title 44;
- (b) The netting basis will be reduced by any unassigned emissions that are reduced under paragraph 42-0055(3)(a);
- (c) The netting basis will be reduced by the amount of emission reduction credits transferred off site in accordance with title 41;
- (d) The netting basis will be reduced when actual emissions are reduced according to subsection 42-0051(3);
- (e) The netting basis will be increased by any of the following:
 - (A) For sources that obtained a permit on or after January 11, 2018, any emission increases approved through Major NSR or Type A State NSR action under title 38;
 - (B) For sources that obtained a permit prior to January 11, 2018, any emission increases approved through the NSR regulations in title 38 in effect at the time; or
 - (C) For sources where the netting basis was increased in accordance with the LRAPA PSD rules that were in effect prior to July 1, 2011, the netting basis may include emissions from emissions units that were not subject to both an air quality analysis and control technology requirements if the netting basis had been increased following the rules in effect at the time.
- (f) The netting basis will be increased by any emissions from activities previously classified as categorically insignificant prior to January 11, 2018, provided the activities existed during the baseline period or at the time of the last NSR permitting action that changed the netting basis under paragraph (e).
- (4) In order to maintain the netting basis, permittees must maintain either a Standard ACDP or an LRAPA Title V Operating Permit. A request to be assigned any other type of ACDP sets the netting basis at zero (0) upon issuance of the other type of permit and remain zero (0) unless an increase is approved under paragraph (3)(e).
- (5) If a source relocates to a different site that LRAPA determines is within or affects the same airshed, and the time between operation at the old and new sites is less than six (6) months, the source may retain the netting basis from the old site.
- (6) A source's netting basis for a regulated pollutant with a revised definition will be corrected if the source is emitting the regulated pollutant at the time the definition is

revised and the regulated pollutant is included in the source's netting basis.

- (7) Where EPA requires an attainment demonstration based on dispersion modeling, the netting basis must not be 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).

Section 42-0048 Baseline Period and Baseline Emission Rate

- (1) The baseline period used to calculate the baseline emission rate is either:
 - (a) For any regulated pollutant other than GHG and PM_{2.5}, calendar years 1977 or 1978. LRAPA may allow the use of a prior time period upon a determination that it is more representative of normal source operation.
 - (b) For GHGs, any consecutive 12 calendar month period during calendar years 2000 through 2010.
 - (c) For a pollutant that becomes a regulated pollutant subject to title 38 after May 1, 2011, any consecutive 12 calendar month period within the 24 months immediately preceding the pollutant's designation as a regulated pollutant if a baseline period has not been defined for the regulated pollutant.
- (2) A baseline emission rate will only be established for those regulated pollutants subject to title 38.
- (3) A baseline emission rate will not be established for PM_{2.5}.
- (4) The baseline emission rate for GHGs, on a CO_{2e} 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.
- (5) For a pollutant that becomes a regulated pollutant subject to title 38 after May 1, 2011, the initial baseline emission rate is the actual emissions of that regulated pollutant during the baseline period.
- (6) The baseline emission rate will be recalculated only under the following circumstances:
 - (a) For GHGs, if actual emissions are reset in accordance with subsection 42-0051(3);
 - (b) If a material mistake or an inaccurate statement was made in establishing the production basis for the baseline emission rate;
 - (c) If a more accurate or reliable emission factor is available; or
 - (d) If emissions units that were previously not included in baseline emission rate must

be included as a result of rule changes.

- (7) The baseline emission rate is not affected if emission reductions are required by rule, order, or permit condition.

Section 42-0051 Actual Emissions

- (1) A source's actual emissions as of the baseline period are the sum total of the actual emissions from each part of the source for each regulated pollutant. The actual emissions as of the baseline period will be determined to be:
 - (a) Except as provided in paragraphs (b) and (c) and subsection (2), the average rate at which the source actually emitted the regulated pollutant during normal source operations over an applicable baseline period;
 - (b) The source-specific mass emissions limit included in a source's permit that was effective on September 8, 1981 if such emissions are within ten (10) percent of the actual emissions calculated under paragraph (a); or
 - (c) The potential to emit of the source or part of a source as specified in subparagraphs (A) and (B). The actual emissions will be reset if required in accordance with subsection (3).
 - (A) 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 title 34, or 37, or was not required to obtain approval to construct and operate before or during the applicable baseline period; or
 - (B) Any source or part of a source that will emit 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 title 34 or 37.
- (2) For any source or part of a source or any modification of a 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 title 34, 37 or 38, actual emissions of the source or part of the source equal the potential to emit of the source or part of the source on the date source or part of the source was approved to construct and operate.
- (3) For any source or part of a source whose actual emissions of greenhouse gases were determined pursuant to subparagraph (1)(c)(B), and for all other sources of all other regulated pollutants that are permitted in accordance with the Major NSR rules in title 38 on or after May 1, 2011, the potential to emit of the source or part of the source will be reset to actual emissions as follows:
 - (a) Except as provided in paragraph (b), ten (10) years from the end of the applicable

baseline period under subparagraph (1)(c)(B) or ten (10) years from the date the permit is issued under subsection (2), or an earlier time if requested by the source in a permit application involving public notice, LRAPA will reset actual emissions of the source or part of the source to equal the highest actual emission rate during any consecutive 12-month period during the ten (10) year period or any shorter period if requested by the source. Actual emissions are determined as follows:

- (A) The owner or operator must select a consecutive 12-month period and the same 12-month period must be used for all affected regulated pollutants and all affected devices or emissions units; and
 - (B) The owner or operator must determine the actual emissions during that 12-month period for each device or emissions unit that was subject to Major NSR or Type A State NSR action under title 38, or for which the baseline emission rate is equal to the potential to emit.
- (b) LRAPA may extend the date of resetting by five (5) additional years upon satisfactory demonstration by the source that construction is ongoing or normal operation has not yet been achieved.
 - (c) Any emission reductions achieved due to enforceable permit conditions based on sections 32-006 and 32-007 are not included in the reset calculation required in paragraph (a).
- (4) Regardless of the PSEL compliance requirements specified in a permit, actual emissions from a source or part of a source may be calculated for any given 12 consecutive month period using data that is considered valid and representative of the source or part of source' emissions. Actual emissions must be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

Section 42-0055 Unassigned Emissions

- (1) Purpose. The purpose of unassigned emissions is to track and manage the difference in the quantity of emissions between the netting basis and what the source could emit based on the facility's current physical and operational design.
- (2) Establishing unassigned emissions.
 - (a) Unassigned emissions equal the netting basis minus the source's current PTE, minus any banked emission reduction credits. Unassigned emissions are zero (0) if this result is negative.
 - (b) Unused capacity created after the effective date of this rule due to reduced potential to emit that is not banked or expired emission reduction credits (section 41-0030), increase unassigned emissions on a ton for ton basis.

- (3) Maximum unassigned emissions.
 - (a) Except as provided in paragraph (c), unassigned emissions will be reduced to not more than the SER (LRAPA title 12, Table 2) on July 1, 2010 and at each permit renewal following that date.
 - (b) The netting basis is reduced by the amount that unassigned emissions are reduced.
 - (c) In an AQMA where the EPA requires an attainment demonstration based on dispersion modeling, unassigned emissions are not subject to reduction under this rule.
- (4) Using unassigned emissions.
 - (a) An existing source may use unassigned emissions for internal netting to allow an emission increase in accordance with the permit.
 - (b) A source may not bank unassigned emissions or transfer them to another source.
 - (c) A source may not use emissions that are removed from the netting basis, including emission reductions required by rule, order or permit condition under subparagraph 42-0046(3)(a)(C), for netting in any future permit actions.
- (5) Upon renewal, modification or other reopening of a permit after October 14, 2008 the unassigned emissions will be established with an expiration date of July 1, 2010 for all unassigned emissions in excess of the SER. Each time the permit is renewed after July 1, 2010 the unassigned emissions will be established again and reduced upon the following permit renewal to no more than the SER for each regulated pollutant.

Section 42-0060 Plant Site Emission Limits for Sources of Hazardous Air Pollutants

- (1) LRAPA may establish PSELs for hazardous air pollutants (HAPs) if an owner or operator requests that LRAPA create an enforceable PTE limit.
- (2) PSELs will be set only for individual or combined HAPs and will not list HAPs by name. The PSEL will be set on a rolling 12-month basis and will be set based on the potential to emit if more than the de minimis emission level and to also comply with OAR chapter 340, division 245.
- (3) The alternative emissions controls (bubble) provisions of section 32-100 do not apply to emissions of HAPs.

Section 42-0080 Plant Site Emission Limit Compliance

- (1) The permittee must monitor pollutant regulated emissions or other parameters that are sufficient to produce the records necessary for demonstrating compliance with the PSEL.
- (2) The frequency of the monitoring and associated averaging periods must be as short as

possible and consistent with that used in the compliance method.

- (3) Annual and Short-term PSEL Monitoring and Recordkeeping:
 - (a) For annual PSELs, the permittee must monitor appropriate parameters and maintain all records necessary for demonstrating compliance with the annual PSEL at least monthly and be able to determine emissions on a rolling 12 consecutive month basis.
 - (b) For short term PSELs, the permittee must monitor appropriate parameters and maintain all records necessary for demonstrating compliance with any short term PSEL at least as frequently as the short term PSEL averaging period.
- (4) The applicant must specify in the permit application the method that will be used to determine compliance with the PSEL. LRAPA will review the method(s) and approve or modify, as necessary, to assure compliance with the PSEL. LRAPA will include PSEL compliance monitoring methods in all permits that contain PSELs. Depending on source operations, one or more of the following methods may be acceptable:
 - (a) Continuous emissions monitors,
 - (b) Material balance calculations,
 - (c) Emissions calculations using approved emission factors and process information,
 - (d) Alternative production or process limits, and
 - (e) Other methods approved by LRAPA.
- (5) When annual reports are required, the permittee must include the emissions total for each consecutive 12-month period during the calendar year, unless otherwise specified by a permit condition.
- (6) Regardless of the PSEL compliance requirements specified in a permit, actual emissions may be calculated in accordance with subsection 42-0051(4).

Section 42-0090 Combining and Splitting Sources and Changing Primary SIC Code

- (1) Two or more sources may combine into one source if the criteria in paragraph (a) are met. When two (2) or more sources combine into one (1) source under this rule, the combined source is subject to the criteria in paragraph (b).
 - (a) Two (2) or more sources may combine into one (1) source only if all of the following criteria are met:
 - (A) All individual sources that are being combined must be located within or impact the same airshed; and

- (B) The combined source must have the same primary 4-digit SIC code as at least one of the individual sources that are being combined.
- (b) The combined source is regulated as one source, subject to the following:
 - (A) The combined source netting basis is the sum of the individual sources' netting basis, provided that the netting basis of any individual source being combined may only be included in the combined source's netting basis if that individual source has a primary or secondary 2-digit SIC code that is the same as the primary or a secondary 2-digit SIC code of the combined source.
 - (B) The simple act of combining sources, without an increase over the combined PSEL, does not subject the combined source to Major NSR or State NSR.
 - (C) If the combined source PSEL, without a requested increase over the existing combined PSEL, exceeds the combined netting basis plus the SER, the source may continue operating at the existing combined source PSEL without becoming subject to NSR until such time that the source requests an increase in the PSEL or the source is modified. If a source requests an increase in the PSEL or the source is modified, LRAPA will evaluate whether NSR will be required.
- (2) When one source is split into two (2) or more separate sources, or when a source changes its primary activity (primary 2-digit SIC code):
 - (a) The netting basis and SER may be transferred to one or more resulting source or sources only if:
 - (A) The primary 2-digit SIC code of the resulting source is the same as one of the primary or secondary 2-digit SIC codes that applied at the original source; or
 - (B) The resulting source and the original source have different primary 2-digit SIC codes but LRAPA determines the activities described by the two different primary 2-digit SIC codes are essentially the same.
 - (b) The netting basis and the SER for the original source is split amongst the resulting sources as requested by the original permittee.
 - (c) The amount of the netting basis that is transferred to the resulting source or sources may not exceed the potential to emit of the existing devices or emissions units involved in the split.
 - (d) The split of netting basis and SER must either:
 - (A) Be sufficient to avoid NSR for each of the newly created sources; or

- (B) The newly created source(s) that become subject to NSR must comply with the requirements of title 38 before beginning operation under the new arrangement.
- (3) The owner or operator of the source, device or emissions unit must maintain records of physical changes and changes in the method of operation occurring since the baseline period or most recent Major NSR or Type A State NSR action under title 38. These records must be included in any future evaluation under section 38-0025 (major modification).