

Start Rulemaking Proposal (SRP)

Date: April 19, 2010

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Submit this form and a completed Opt In/Out form to Bobbi Demauro (ODAM support person) by the Friday, 10 days prior to ODAM.

Rulemaking Proposal

Rule Number and Title	Amend OAR 340-200, General Air Pollution Procedures and Definitions; OAR 340-202 Ambient Air Quality Standards and PSD Increments; OAR 340-224, Major New Source Review; OAR 340-225, Air Quality Analysis Requirements.
Objective of rulemaking	The objective of this rulemaking is to adopt newly promulgated EPA standards for fine particles PM _{2.5} , making it possible to continue to implement the New Source Review/Prevention of Significant Deterioration. EPA adopted standards for PM _{2.5} based on their link to serious health problems ranging from increased symptoms, hospital admissions and emergency room visits for people with heart and lung disease, to premature death in people with heart or lung disease. NSR is a national preconstruction clean air permitting program that provides important public health and environmental protection. NSR is comprised of several preconstruction review permitting regulations for major stationary sources located in attainment (areas that meet air quality standards) or nonattainment areas (areas that do not meet air quality standards). The part of NSR applicable to sources located in attainment areas is called the PSD program.
Changes Proposed	The rules will adopt a significant emission rate, a PSD increment, a significant impact level, and a significant monitoring concentration for PM _{2.5} .

<p>Need for this Rulemaking</p>	<p>What is the need for the proposed rules or amendments? Address each of the following that applies:</p> <ul style="list-style-type: none"> ▪ Do the rule changes address a known environmental problem or a problem we speculate will occur? If the latter, how likely or serious is the problem? What are the consequences of not addressing it? <p>The proposed rule changes prevent a problem in implementing the NSR/PSD program. Without the rule changes, detailed analyses would be required for any increase in permitted PM2.5 emissions, causing a considerable increase in workload for the regulated community and DEQ with no appreciable environmental benefit. The need for emergency rulemaking is because EPA proposes to end early the PM10 Surrogate Policy, which has been in place since 1997. The PM10 surrogate policy is designed to enable sources to make a demonstration of compliance with PSD requirements for PM10 as a surrogate for requirements for PM2.5 to avoid various technical issues associated with undertaking PM2.5 analysis. Without this rule amendment, companies might avoid or delay making needed changes to their facility.</p> <ul style="list-style-type: none"> ▪ Will the changes make it easier for the regulated community to do business? Have we consulted w/affected groups to confirm this? <p>The rule changes will make it easier for the regulated community to do business by not requiring them to submit NSR/PSD permit applications for any change at a facility that increases permitted PM2.5 emissions. Affected groups have not been consulted yet.</p> <ul style="list-style-type: none"> ▪ Will the changes make it easier for DEQ to do business? What resource savings will be achieved? <p>The proposed changes will allow DEQ to continue to implement the NSR/PSD program rather than reviewing analyses for any increase in permitted PM2.5 emissions. Without the proposed changes, significant time would be required to review the analyses of PM2.5 in NSR/PSD permit applications.</p>
	<ul style="list-style-type: none"> ▪ Will the changes further one or more of our strategic directions? <p>The proposed rule changes further DEQ's Strategic Direction of ensuring delivery of excellence through quality service and equitable compliance and enforcement. This will be done by allowing DEQ to issue timely and protective permits and not creating a large backlog of NSR/PDS permit modification applications.</p> <ul style="list-style-type: none"> ▪ Do the rules achieve or maintain consistency with federal requirements or delegation of federal programs? If so, explain why that is necessary or important. <p>DEQ has been delegated authority to implement the NSR/PSD program. The proposed rules will maintain consistency with federal requirements and enable DEQ to retain program delegation. DEQ adopted more stringent standards than EPA for the PM10 significant emissions levels in Class II areas and will retain these levels for PM2.5.</p> <ul style="list-style-type: none"> ▪ Is there another compelling reason? <p>No</p> <ul style="list-style-type: none"> ▪ Can the need be met through policy, guidance, or another alternative to rulemaking? If not, briefly explain. <p>The need cannot be met through policy, guidance, or another alternative to rulemaking because current rules require NSR/PSD analyses for increases in regulated pollutants above SERs. If there is no SER, analyses would be required for any increase of PM2.5 emissions.</p>

Relevant History	<ul style="list-style-type: none"> • On February 4, 2010, the EPA proposed to repeal a portion of the rule implementing the NSR permitting program for fine particle pollution. This part of the rule is known as “the grandfathering provision for PM2.5. This provision allowed federal PSD permit applicants to meet permitting requirements for particulate matter by relying on requirements for coarse particles – those 10 micrometers in diameter and smaller (PM10) – as a surrogate for meeting the requirements for particles 2.5 micrometers in diameter and smaller (PM2.5) if they applied for the permit before July 15, 2008 and had not yet received their permit. • The PM10 Surrogate Policy has been in place since 1997, and is designed to enable sources to make a demonstration of compliance with PSD requirements for PM10 as a surrogate for requirements for PM2.5 to avoid various technical issues associated with undertaking a PM2.5 analysis. Difficulties concerning PM2.5 include the lack of necessary tools to calculate the emissions of PM2.5 and related precursors, the lack of adequate modeling techniques to project ambient impacts, and the lack of PM2.5 monitoring sites. EPA has now determined that these technical issues have largely been resolved.
Deadlines	<p>The EPA is proposing to repeal a portion of the rule implementing the NSR permitting program for PM2.5. Final rule promulgation is expected soon. DEQ rules must be adopted shortly after the EPA rules are promulgated in order to avoid the potential permitting backlog.</p>
Technical or Environmental Issues	<p>See above in “Need for this Rulemaking”</p>
Cross Media Issues	<p>There are no cross media issues identified with this rulemaking.</p>
Policy or Political Issues	<p>There are no specific policy or potential political issues associated with this rulemaking. However, not adopting this rule would have a significant impact on the business community.</p>
Potential Impacts to MSD	<p>There are no potential impacts to MSD related to this rulemaking.</p>
Potential Impacts to OCE	<p>Does this rulemaking develop new or expand existing compliance requirements? Does this rulemaking subject previously unregulated persons to regulations? Does this rulemaking develop a new or expand an existing permit/regulatory program? This rulemaking does not:</p> <ul style="list-style-type: none"> • develop new or expand existing compliance requirements, • subject previously unregulated persons to regulations, or • develop a new or expand an existing permit/regulatory program.

Implementation Issues	<p>Will we be able to implement the rules? Can we effectively enforce the rules? If not, have we considered another approach to compliance? If the rules will not be accompanied by new resources, what other work will not get done? Are we prepared to drop that work?</p> <p>DEQ currently implements and effectively enforces the NSR/PSD rules. The proposed rule changes will not affect implementation.</p> <p>Have we communicated internally and externally with stakeholders? Is there an internal and external communication strategy to ensure that both DEQ staff and the regulated community are prepared for the effects of the rules? Is this strategy for both rulemaking and rule implementation?</p> <p>Internal communication on the proposed rule changes has been through the lead permit writers subgroup. Stakeholders will be consulted on the proposed rule changes through the Air Quality Business and Environmental Roundtables. Ongoing communication with these groups will ensure preparedness for the effects of these rules.</p>
5 year Review	<p>ORS 183.405(5)(b) exempts rules that adopt federal laws or rules by reference from the 5 year review.</p>
Stakeholders	<p>The entities interested or potentially affected by these rules include proposed new and modified major stationary sources in all industry groups. The majority of sources potentially affected are expected to be in the following groups: electric services; petroleum refining; industrial inorganic chemicals; industrial organic chemicals; miscellaneous chemical products; natural gas liquids; natural gas transport; pulp and paper mills; paper mills; automobile manufacturing; pharmaceuticals.</p> <p>Stakeholders will be consulted on these proposed rule changes through the Air Quality Business and Environmental Roundtables and should generally be in favor of the rule.</p>
Effects on Small Business, Individuals	<p>Do the rules affect individuals, small businesses or small communities? If so, what alternatives have been or will be explored to minimize costs, including different requirements for these entities? Have we evaluated the cumulative effect of DEQ requirements and considered existing requirements that could be repealed or modified as these new requirements are adopted?</p> <p>The proposed rules will not affect individuals, small businesses or small communities.</p>

Rulemaking Process

Rulemaking Team				
	Rulemaking Team	Member Name	Time estimate	Duration
	Sponsoring DA	Andy Ginsburg	10 hours	4 months
	Lead Manager	Uri Papish	20 hours	4 months
	Rule writer	Jill Inahara	30 hours	4 months
	Regional Manager			
	Regional staff	Mark Fisher	20 hours	4 months
	Other programs/divisions			
	Other agencies			

Advisory Process	DEQ will meet with stakeholders through the Air Quality Business and Environmental Roundtables or may meet separately with stakeholders to describe the proposed action and discuss the effects of the rule changes. The proposal will be presented to stakeholders for comment during the public participation period of the permanent rulemaking.	
Public Involvement	The public has not been involved, as allowed by the temporary rule making procedures. Permitted sources and other interested parties will receive the permanent rulemaking proposal either in hard copy or via e-mail during the public notice process.	
EQC Involvement	The Environmental Quality Commission does not need to be involved before rule adoption since the proposed changes adopted EPA standards.	
Rulemaking Target Dates		
	Milestone	Target Dates
	Advisory Process (e.g., committees; workgroups)	May – June, 2010
	Publication in SOS Bulletin	NA – Temporary Rule
	EQC rule adoption	August 18, 2010

Attachment: Opt In/Out Form

