

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

Department of Environmental Quality	340
Agency and Division	Administrative Rules Chapter Number
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Rules Coordinator	Telephone
Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204-1390	
Address	

RULE CAPTION

Updates to Oregon SIP for Nitrogen Dioxide, Sulfur Dioxide and Lead Ambient Air Quality Standards

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
8-15-13	6:00 p.m.	DEQ Headquarters, 811 SW Sixth Ave. Conference Room B, Portland,	DEQ staff

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

OAR 340-200-0020 Table 1, 340-200-0040, 340-202-0070, 340-202-0100, 340-202-0130

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS chapters 468 & 468A

Other Authority:

Statutes Implemented:

ORS 468A

RULE SUMMARY

The proposed rule amendments incorporate new and revised NAAQS for NO₂, SO₂ and Pb into Oregon Administrative Rule and adopt significant air quality impact levels for NO₂ and SO₂ as necessary to meet Clean Air Act requirements and revise the Oregon SIP for approval by EPA.

The proposal includes the following actions:

- I, · Amend OAR 340-200-0040 to update the Oregon Clean Air Act State Implementation Plan. If adopted by the EQC, the actions proposed in this rulemaking will be incorporated into and made part of Oregon SIP.
- I, · Amend OAR 340-200-0020 Table 1 to add 1-hour Significant Air Quality Impact Levels for NO₂ and SO₂.
- I, · Amend OAR 340-202-0070 to incorporate the primary 1-hour National Ambient Air Quality Standard for sulfur dioxide, adopted by the EPA June 22, 2010 and effective on August 23, 2010.
- I, · Amend OAR 340-202-0100 to incorporate the primary 1-hour National Ambient Air Quality Standard for nitrogen dioxide, adopted by the EPA February 9, 2010 and effective on April 12, 2010.
- I, · Amend OAR 340-202-0130 to incorporate the primary and secondary National Ambient Air Quality Standard for lead, adopted by the EPA November 12, 2008 and effective on January 12, 2009.

and effective on January 12, 2008.

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

08-19-2013 5:00 p.m.	Maggie Vandehey	maggie.vandehey@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

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7-15-13 4:22 PM
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*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.

ARC 923-2003

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Department of Environmental Quality
Agency and Division

340
Administrative Rules Chapter Number

Updates to Oregon SIP for Nitrogen Dioxide, Sulfur Dioxide and Lead Ambient Air Quality Standards

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Updates to Oregon SIP for Nitrogen Dioxide, Sulfur Dioxide and Lead Ambient Air Quality Standards

Statutory Authority:

ORS chapters 468 & 468A

Other Authority:

Statutes Implemented:

ORS 468A

Need for the Rule(s):

States have a legal obligation under the Clean Air Act to amend their administrative rules to adopt new or revised National Ambient Air Quality Standards and incorporate these standards into their State Clean Air Act Implementation Plans. Amendments to Oregon Administrative Rule are needed to incorporate the 1-hour NAAQS and corresponding Significant Impact Levels for nitrogen dioxide (NO₂) and sulfur dioxide (SO₂) into the Oregon SIP, as well as to revise the rule language for the existing Lead (Pb) standard in OAR 340-200-0020 to make it consistent with the wording of the Pb NAAQS in the Code of Federal Regulations. Incorporating these changes into the Oregon SIP will allow DEQ to submit the revised infrastructure SIP elements for these pollutants to EPA for approval. Once approved, DEQ will have the authority to implement the current NAAQS for NO₂, SO₂ and Pb in Oregon, in compliance with the Clean Air Act.

The proposed rule amendments will incorporate the primary 1-hour National Ambient Air Quality Standards and corresponding 1-hour Significant Impact Levels for nitrogen dioxide and sulfur dioxide into Oregon rule, as required by the Clean Air Act, as well as revise existing rule language for the lead ambient air quality standard for consistency with federal regulation language. If adopted, these proposed rule amendments will allow DEQ to submit the revised infrastructure SIP requirements to the U.S. Environmental Protection Agency for approval as revisions to the Oregon SIP.

Documents Relied Upon, and where they are available:

TRAACS database query for small and large businesses performed June 07, 2013.
TRAACS database query for fiscal impacts on government agencies performed June 25, 2013. Document available upon request from:
DEQ Headquarters
811 SW 6th Ave.
Portland, OR 97204

Fiscal and Economic Impact:

This proposal would have a fiscal impact on DEQ to the extent that resources are necessary to implement the new NO₂, SO₂, and lead NAAQS. DEQ's current budget includes resources to implement the NAAQS monitoring program as well as conduct planning, technical analysis and monitoring, rulemaking, and community outreach activities as needed if compliance problems with federal NAAQS are discovered in the future. States are routinely required to incorporate federal revisions to the NAAQS into their rules and subsequently revise their State Implementation Plans to address related infrastructure elements. The Clean Air Act requires EPA to revise the NAAQS for a criteria pollutant when new information is available to suggest a more protective standard is necessary to protect public health and welfare. In addition, the proposed amendment to the Prevention of Significant Deterioration requirements (adoption of 1-hour SILs for NO₂ and SO₂) may have a fiscal impact on new or expanding major industrial sources by requiring additional modeling analysis and possibly emission controls

depending on the circumstances of the specific case.

Upon adoption of the primary 1-hour NAAQS for NO₂ and SO₂ into Oregon Administrative Rule, DEQ will be required to include the 1-hour NO₂ and SO₂ standards in the modeling protocols for air quality analyses under the Plant Site Emission Limit and Prevention of Significant Deterioration programs. Currently, modeling to meet the primary 1-hour NO₂ and SO₂ standards is requested of sources by DEQ when deemed necessary. Permitted industrial sources affected by the proposed rule amendments may incur additional costs associated with modeling for purposes of Prevention of Significant Deterioration determinations prior to construction of a new air pollution source, or as a result of modifying an existing facility. New facilities and existing facilities that undergo modifications may need to hire an environmental consulting firm to develop computer simulation modeling to demonstrate compliance with the new primary 1-hour NAAQS for NO₂ and SO₂.

The addition of the 1-hr NO₂ and SO₂ NAAQS may increase the cost of modeling analyses for sources that emit these pollutants. Currently, these analyses are conducted on an as-requested basis. The modeling results could potentially require a source to add emission controls to meet the new 1-hr NAAQS. The costs associated with modeling analyses and any additional controls triggered by compliance with the 1-hr NO₂ and SO₂ NAAQS are dependent on the source being analyzed and will need to be determined on a case-by-case basis. If a source can demonstrate that the planned modification will result in an emissions increase that is less than the Significant Emission Rate (SER), no additional modeling is required. For sources with modifications that result in emissions increases above the SER, additional air quality modeling is required. Some sources will be able to conduct modeling efforts internally, while others may need to contract for those services. Cost estimates for PSD modeling could range from a few thousand dollars in order to quantify emissions to over \$100,000 for more extensive modeling efforts if emissions rates are expected to exceed the facility's SER.

Because the NAAQS are federal requirements under the Clean Air Act, DEQ is required to adopt and implement these standards in Oregon. If DEQ did not adopt the NAAQS and related 1-hour Significant Impact Levels, EPA would be required to enforce these standards in Oregon, resulting in the same compliance costs borne by affected sources under the proposed amendments to state rules.

It is important to note that this proposal has the potential to affect large and small businesses that emit NO₂, SO₂ and Pb similarly. This is because the size of a business may not correlate well with the emission rates associated with its activities. Emission rates are what trigger additional costs associated with PSD modeling, rather than the number of employees a business has on staff. For existing permitted industrial sources (large and small), air quality analysis modeling and other requirements are only triggered if that facility proposes to expand its operations in such a manner as to cause a significant increase of a criteria air pollutant.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

State agencies

State government agencies engaged in activities which emit NO₂ or SO₂ in quantities that may contribute to ambient concentrations above the primary 1-hour NAAQS for these pollutants could be required to conduct PSD modeling and/or source monitoring to demonstrate compliance with the standards when constructing a new source or expanding an existing permitted source. Such activities include but are not limited to the operation of biomass, oil and natural gas boilers; back-up generators; or concrete, rock and asphalt crushers.

Local governments

The proposed rule amendments could have implications for Metro's regional transportation planning efforts as they pertain to the 1-hour NO₂ NAAQS with respect to near-roadway vehicle exhaust. DEQ will begin air quality monitoring near heavily-used roadways in the Portland area in 2014. If the NO₂ NAAQS is violated as a result of this monitoring, DEQ will be required to develop the necessary strategies and an attainment plan to correct the violation. If such a plan were needed, it is likely that Metro would be required to demonstrate that future transportation system plans do not jeopardize compliance with the NAAQS.

Public

This proposal includes amendments to Oregon Administrative Rules to adopt new, federally required primary 1-hour National Ambient Air Quality Standards and corresponding 1-hour Significant Impact Levels for nitrogen dioxide and sulfur dioxide, which EPA promulgated as more protective of public health and welfare than the existing standards for these pollutants. Although the positive impacts to public health have not been monetarily quantified, it is generally expected that because the primary 1-hr NO₂ and SO₂ NAAQS measure area-wide ambient air concentrations using shorter averaging times, adopting these standards will result in an increased level of protection of public health and welfare. Once adopted, should the 1-hour standards be exceeded in the future (as determined by DEQ ambient air quality monitoring), DEQ will have the capacity to implement actions to reduce ambient air concentrations of these 15

Large businesses (not discussed in 2 below)

Major new or modified sources such as natural gas electrical generating facilities and data storage and processing server farm centers with multiple back-up diesel generators may need to conduct a PSD analysis to determine

whether they exceed the new 1-hour primary NO₂ and SO₂ standards, and under some circumstances may need to purchase monitoring equipment necessary to demonstrate compliance with the NAAQS. Existing facilities undergoing PSD that are currently subject to NO₂ or SO₂ monitoring requirements may be able to use their existing monitoring equipment to demonstrate compliance with any new air quality analysis modeling requirements. Monitoring costs associated with newly constructed sources are dependent on the applicable requirements associated with the facility design. DEQ will work with new sources to determine the monitoring needs of a proposed facility.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

New or modified small businesses with NO₂ or SO₂ emissions increases high enough to trigger PSD analysis would be required to demonstrate compliance with the standards and/or install controls. Estimate of the number of small businesses that generate NO₂, SO₂ or Pb emissions:

Air Contaminant Discharge Permit - 337

Title V Operating Permit - 10

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

New or existing expanding permitted facilities will likely need to hire a consultant to conduct PSD analysis for the new primary 1-hour NO₂ and SO₂ NAAQS.

c. Equipment, supplies, labor and increased administration required for compliance:

Equipment requirements for small businesses to comply with the new NAAQS would be case specific and cannot be determined at this time.

How were small businesses involved in the development of this rule?

DEQ did not involve small businesses in the development of this rulemaking. The proposed rule amendments are required in order to align state rules with federal Clean Air Act requirements and provide DEQ with the necessary authority to implement the NO₂, SO₂ and Pb NAAQS in Oregon. As such, there was no policy choice to be made which would necessitate input from an advisory committee.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

DEQ did not appoint an advisory committee for the proposed permanent rule amendments. This rulemaking proposal is necessary to align Oregon Administrative Rules with federally revised National Ambient Air Quality Standards under the Clean Air Act. The proposed changes are required to demonstrate that Oregon DEQ has the appropriate rules, programs and agreements in place to implement the Clean Air Act. As such, there was no policy choice to be made which would necessitate input from an advisory committee.

08-19-2013 5:00 p.m.

Maggie Vandehey

maggie.vandehey@state.or.us

Last Day (m/d/yyyy) and Time
for public comment

Printed Name

Email Address

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7-15-13 4:22 PM

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Housing cost

Updates to Oregon SIP for Nitrogen Dioxide, Sulfur Dioxide and Lead Ambient Air Quality Standards

The proposed PSD requirements for NO₂, SO₂ or lead are required by the Clean Air Act and must be adopted by Oregon. To comply with ORS 183.534, DEQ has determined that the federal PSD requirements adopted by this rulemaking for new or expanding industrial sources of NO₂, SO₂ or lead may have a negative impact on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single-family dwelling on that parcel. The negative impact could occur if the cost of air modeling analysis or subsequent monitoring or emission controls are passed through by permit holders providing products and services for such development and construction. DEQ cannot quantify possible impacts at this time because the available information does not indicate whether sources subject to these new PSD requirements would pass on costs to consumers and any such estimate would be speculative.