

Oregon Department of Environmental Quality

**ENTER NOTICE DATE**

Notice of Proposed Rulemaking

 **Infrastructure SIP for NO2, SO2 and Lead**

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|  **Overview** |

Updates to the Oregon State Implementation Plan are needed to ensure that Oregon has the authority to implement the National Ambient Air Quality Standards for nitrogen dioxide, sulfur dioxide and lead under the federal Clean Air Act. The proposed rule revisions update Oregon’s infrastructure State Implementation Plan and allow for EPA approval of the revised SIP.

Short summary

The proposed rule amendments would update the Oregon State Implementation as necessary to align with revised the National Ambient Air Quality Standards. The proposed rule revisions include the following:

* Amend OAR 340-202-0100to reflect federal changes to National Ambient Air Quality Standards for Nitrogen Dioxide, adopted by the U.S. EPA February 9, 2010.
* Amend OAR 340-202-0070 to reflect federal changes to National Ambient Air Quality Standards for Sulfur Dioxide, adopted by the U.S. EPA June 22, 2010.
* Amend OAR 340-202-0130 to reflect federal changes to National Ambient Air Quality Standards for Lead, adopted by the U.S. EPA November 12, 2008.
* Adoption of crosswalk documents for Nitrogen Dioxide, Sulfur Dioxide and Lead into the state of Oregon Infrastructure State Implementation Plan. The crosswalks document the correlation between the Oregon Administrative Rules and corresponding Oregon Revised Statutes that authorize DEQ to implement federal Clean Air Act requirements.
* INTERSTATE TRANSPORT????

Brief history

Sections 110(a)(1) and (2) of the federal Clean Air Act require states to submit changes to state implementation plan infrastructure elements to EPA for approval. A state implementation plan is a plan developed by states for implementing portions of the Clean Air Act, and consists of narrative, rules, technical documentation and agreements. States maintain and periodically update their plans to incorporate new requirements, and EPA must approve each revision.

The EPA has revised National Ambient Air Quality Standards for nitrogen dioxide, sulfur dioxide and lead, triggering a need to amend Oregon rules to reflect the updated standards for these pollutants. The National Ambient Air Quality Standards are required by the Clean Air Act, and incorporated into Oregon Administrative Rules. When the standards are revised by EPA, Oregon rules need to be amended to align with federal revisions to the NAAQS.

Regulated parties

Enter text here

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| [OPTIONAL] **Freeform title** [EXAMPLE: **Outline**/**Key issues**/**Crosswalk**/**Map**] |

Repetitious format

The porposed rules changes are divided into three sections for ease of reading, but are being submitted as one rulemaking. Because the crosswalks for each pollutant cover the same elements in the CAA (XXX-XXX), some redundancies occur in the formatting.

Crosswalks

This report is accompanied by three reference documents…

| **Title** | **Title** |
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| Subtitle | Subtitle |
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|  **Statement of need** |

What problem is DEQ trying to solve?

Amendments to Oregon Administrative Rule are needed to align state laws with revised National Ambient Air Quality Standards for nitrogen dioxide, sulfur dioxide and lead.

How would the proposed rule solve the problem?

The proposed rule amendments will update Oregon Administrative Rules to align with the revised National Ambient Air Quality Standards for nitrogen dioxide, sulfur dioxide and lead.

How will DEQ know the problem has been solved?

If adopted, the proposed rule amendments will be filed with the Secretary of State and submitted to the EPA for review and approval. The proposed rule amendments will become effective in Oregon upon EQC approval. The Oregon state implementation plan will be officially revised when EPA publishes its approval in the Federal Register.

Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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|  Rules affected, authorities, supporting documents |

Lead divisionProgram or activity

Air Quality Planning

Chapter 340 action

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| --- | --- |
| Amend | ORS 340-###-####, 340-###-#### or blank |
| Renumber | ORS 340-###-####, 340-###-#### or blank  |
| Amend and Renumber | ORS 340-###-####, 340-###-#### or blank  |

Statutory authority

ORS 468.020, 468.065, Enter here - ###.###

Other authority

 ORS Enter here - ###.###

Statute implemented Legislation [IF RELATIVE]

ORS Enter here - ###.### Enter here- House Bill or Senate Bill ####, yyyy

Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)

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| **Document title** | **Document location** |
| **NAAQS** |  |
| 40 CFR Part 50 – National Primary and Secondary Ambient Air Quality Standards | <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=40:2.0.1.1.1&idno=40>  |
| National Ambient Air Quality Standards (NAAQS) | <http://www.epa.gov/air/criteria.html>  |
| DEQ Air Quality Annual Report and Data Summaries | <http://www.deq.state.or.us/aq/forms/annrpt.htm>  |
| ENVIRONMENTAL PROTECTION AGENCY40 CFR Part 52[EPA-HQ-OAR-2012-0322; FRL-xxxx-x]RIN 2060-AR68State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction | <http://members.4cleanair.org/rc_files/5490/SSM_Petition_2060-AR68_Proposal_FRN_2-12-13.pdf>  |
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| **Nitrogen Dioxide** |  |
| Federal Register Volume 75, Number 26 (Tuesday, February 9, 2010)][Rules and Regulations][Pages 6473-6537]From the Federal Register Online via the Government Printing Office [[www.gpo.gov](http://www.gpo.gov)][FR Doc No: 2010-1990][[Page 6473]]Part IIIEnvironmental Protection Agency40 CFR Parts 50 and 58 | <http://www.gpo.gov/fdsys/pkg/FR-2010-02-09/html/2010-1990.htm>  |
| Nitrogen Dioxide (NO2) Primary Standards - Documents from Review Completed in 2010 - FR Notices | <http://www.epa.gov/ttn/naaqs/standards/nox/s_nox_cr_fr.html>  |
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| Emissions from Simulated Open-Air Burning | <http://www.arb.ca.gov/research/resnotes/notes/96-9.htm>  |
| Wood Stoves and Air Pollution, Clean Burning Wood Stoves Minimize Health Risks | <http://des.nh.gov/organization/commissioner/pip/factsheets/ard/documents/ard-36.pdf>  |
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| **Sulfur Dioxide** |  |
| Sulfur Dioxide | <http://www.epa.gov/airquality/sulfurdioxide/>  |
| Next Steps for Area Designations and Implementation of the Sulfur Dioxide National Ambient Air Quality Standard | <http://www.epa.gov/airquality/sulfurdioxide/pdfs/20130207SO2StrategyPaper.pdf>  |
| Sulfur Dioxide (SO2) Primary National Ambient Air Quality Standards | <http://www.epa.gov/ttnnaaqs/standards/so2/s_so2_index.html>  |
| 40 CFR Parts 50, 53, and 58Primary National Ambient Air QualityStandard for Sulfur Dioxide; Final Rule | <http://www.epa.gov/ttnnaaqs/standards/so2/fr/20100622.pdf>  |
| Guidance for 1-Hour SO2 NAAQS SIPSubmissions | <http://www.epa.gov/airquality/sulfurdioxide/pdfs/DraftSO2Guidance_9-22-11.pdf>  |
| Sulfur Dioxide | <http://www.dhs.wisconsin.gov/eh/ChemFS/fs/SulfurDioxide.htm>  |
| Particulate and trace gas emissions from open burning of wheat straw and corn stover in China | <http://www.ncbi.nlm.nih.gov/pubmed/17937281>  |
| Emission Factor Documentation for AP-42Section 9.5.3 Meat Rendering Plants, Final Report | <http://www.epa.gov/ttnchie1/ap42/ch09/bgdocs/b09s05-3.pdf>  |
| [Federal Register Volume 75, Number 119 (Tuesday, June 22, 2010)][Rules and Regulations][Pages 35519-35603]From the Federal Register Online via the Government Printing Office [[www.gpo.gov](http://www.gpo.gov)][FR Doc No: 2010-13947] | <http://www.gpo.gov/fdsys/pkg/FR-2010-06-22/html/2010-13947.htm>  |
| Nitrogen Dioxide (NO2) Primary Standards - Documents from Review Completed in 2010 | <http://www.epa.gov/ttn/naaqs/standards/nox/s_nox_cr.html>  |
| Air Pollution Nitrogen Dioxide | <http://www.epa.gov/ttn/naaqs/standards/nox/s_nox_cr.html>  |
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| **Lead** |  |
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| 2008 Lead Standards – Region 10 Final Designations (EPA) | <http://www.epa.gov/leaddesignations/2008standards/final/region10f.html>  |
| Area Designations for 2008 Lead Standards (EPA) | <http://www.epa.gov/leaddesignations/2008standards/index.html>  |
| Lead Designations (EPA) | <http://www.epa.gov/leaddesignations/>  |
| Lead Implementation – Programs and Requirements for Reducing Lead | <http://www.epa.gov/airquality/lead/implement.html>  |
| Memorandum: Guidance on Infrastructure State Implementation Plan Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards. (EPA) | <http://www.epa.gov/air/lead/pdfs/20111014infrastructure.pdf>  |
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| **SIP Elements** |  |
| Infrastructure SIP Element Reports (EPA) | <http://www.epa.gov/airquality/urbanair/sipstatus/infrastructure.html>  |
| Region 10 SIP Process Improvement Project (EPA) | [http://yosemite.epa.gov/r10/airpage.nsf/webpage/Region+10+SIP+Process+Improvement+Project+(SIP-PIP)](http://yosemite.epa.gov/r10/airpage.nsf/webpage/Region%2B10%2BSIP%2BProcess%2BImprovement%2BProject%2B%28SIP-PIP%29)  |
| SIP – General Page (EPA) | <http://yosemite.epa.gov/r10/airpage.nsf/283d45bd5bb068e68825650f0064cdc2/b2ce4780021daa07882569de007ba77f?OpenDocument>  |
| SIP – Oregon Table of Contents (EPA) | [http://yosemite.epa.gov/r10/airpage.nsf/webpage/SIP+-+OR+Table+of+Contents?OpenDocument](http://yosemite.epa.gov/r10/airpage.nsf/webpage/SIP%2B-%2BOR%2BTable%2Bof%2BContents?OpenDocument)  |
| SIP Processing Manual | <https://cfpub.epa.gov/oarwebadmin/sipman/sipman/mToc.cfm?chap=0&i=0>  |
| State Implementation Plan Status and Information (EPA) | <http://www.epa.gov/airquality/urbanair/sipstatus/index.html>  |
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| **OREGON ADMINISTRATIVE RULES** | <http://www.deq.state.or.us/regulations/rules.htm>  |
| **OREGON REVISED STATUTES** |  |
| ATTACHMENT – 24-Hour PM2.5 SIP Submittal Completeness Criteria Checklist: Confirmation/Status of 110(a)(2)(A)-(M) SIP Infrastructure Requirements For 2006 PM2.5 NAAQS (ODEQ) |  |

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|  Fee Analysis  |

This rulemaking does not involve fees.

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|  Statement of fiscal and economic impact [ORS 183.335 (2)(b)(E)](http://www.leg.state.or.us/ors/183.html) |

Fiscal and Economic Impact

[SUMMARIZE THE CHANGES THAT WOULD OR COULD CREATE AN IMPACT] Enter text here

Statement of Cost of Compliance

 Impacts on general public

This rulemaking provides a health benefit to the general public by lowering the ambient air quality standards for nitrogen dioxide, sulfur dioxide and lead, although the monetary value of these health benefits have not been quantified.

Impact on other government entities other than DEQ

1. Local governments The proposed rules establish no new requirements, and no direct fiscal or economic impact on local government is anticipated as a result of this rulemaking.
2. State agencies The proposed rules establish no new requirements, and no direct fiscal or economic impact on other state government agencies is anticipated as a result of this rulemaking.

Impact on DEQ [ORS 183.335](http://www.leg.state.or.us/ors/183.html)

No direct fiscal or economic impact on DEQ is anticipated as a result of this rulemaking. Rulemaking will be conducted by existing DEQ staff.

Impact on large businesses (all businesses that are not small businesses below)

Not direct fiscal or economic impact on large business is anticipated as a result of this rulemaking.

Impact on small businesses (those with 50 or fewer employees) [ORS 183.336](http://www.leg.state.or.us/ors/183.html)

[CONSIDER BOTH POSITIVE AND NEGATIVE IN A BRIEF DESCRIPTION OF THE PROJECTED FISCAL AND ECONOMIC IMPACTS AND COSTS OF COMPLIANCE ON SMALL BUSINESSES. IT IS OK TO REFERENCE 1. ABOVE IF THE TEXT WOULD BE IDENTICLE. ]Enter text here

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| a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.  | [EXAMPLE: Assuming all manufacturers in the lowest fee tier are small businesses, 109 small businesses could be affected by this rule.]Enter text here |
| b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule. | [EXAMPLE: No additional activities are required to comply with the proposed rules. All manufacturers already pay registration fees.] Enter text here |
| c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule. | [EXAMPLE: No additional resources are required for compliance with the proposed rules. All manufacturers already pay registration fees.] Enter text here |
| d) Describe how DEQ involved small businesses in developing this proposed rule. | DEQ did not involve small businesses in the development of this rulemaking. The proposed rule amendments are required updates to align state rules with federal Clean Air Act requirements. |

Documents relied on for fiscal and economic impact

[THIS INFORMATION MAY BE A SUBSET OF Rules affected, authorities, supporting documents ABOVE. DOCUMENT RELIED ON FOR THE FISCAL MUST BE DUPLICATED HERE TO MEET APA REQUIREMENTS. ]

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| **Document title** | **Document location** |
| Attachment F, DEQ Memorandum April 7, 2010 Agenda item L, Rule Adoption: Revisions to Oregon’s State Implementation Plan | DEQ-HQ 11th floor,<http://www.deq.state.or.us/about/eqc/agendas/2010/2010aprEQCAgenda.htm#L-SIP>  |
|  |  |

Advisory committee

DEQ did not appoint an advisory committee for the proposed permanent rule amendments. This rulemaking proposal is necessary to align Oregon Administrative Rule with federally revised National Ambient Air Quality Standards and does not impose any new or additional regulations which would necessitate stakeholder input.

Housing cost

To comply with [ORS 183.534](http://www.leg.state.or.us/ors/183.html), 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 only affect sources which are subject to the National Ambient Air Quality Standards for nitrogen dioxide, sulfur dioxide and lead.

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|  **Federal relationship**  |

[FOR PROPOSALS THAT ADDRESS NUMERSOUS ISSUES, USE ONE OF THE METHODS UNDER THE Statement of Need SECTION IF IT CLARIFIES HOW THIS SECTION APPLIES TO THE DISPARATE ELEMENTS OF THIS RULEMAKING.]

*"It is the policy of this state that agencies shall seek to retain and promote the unique identity of Oregon by considering local conditions when an agency adopts policies and rules. However, since there are many federal laws and regulations that apply to activities that are also regulated by the state, it is also the policy of this state that agencies attempt to adopt rules that correspond with equivalent federal laws and rules..."*

Relationship to federal requirements

This rulemaking does not result in any differences from or additions to federal requirements. The proposed SIP revision aligns state rules with federal requirements.

The proposed rule changes adopt the following federal requirements verbatim:

* 40 CFR Part 50.4, National primary ambient air quality standards for sulfur oxides (sulfur dioxide) <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=40:2.0.1.1.1&idno=40#40:2.0.1.1.1.0.1.4>
* 40 CFR Part 50.5, National secondary ambient air quality standards for sulfur oxides (sulfur dioxide) <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=40:2.0.1.1.1&idno=40#40:2.0.1.1.1.0.1.5>
* 40 CFR Part 50.11, National primary and secondary ambient air quality standards for oxides of nitrogen (with nitrogen dioxide as the indicator). <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=40:2.0.1.1.1&idno=40#40:2.0.1.1.1.0.1.11>
* 40 CFR Part 50.16, National primary and secondary ambient air quality standards for lead. <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=40:2.0.1.1.1&idno=40#40:2.0.1.1.1.0.1.16>
* 40 CFR Part 50.17 National primary ambient air quality standards for sulfur oxides (sulfur dioxide). <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=40:2.0.1.1.1&idno=40#40:2.0.1.1.1.0.1.17>

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|  Land use  |

*“It is the Commission's policy to coordinate the Department's programs, rules and actions that affect land use with local acknowledged plans to the fullest degree possible.”*

 [ORS 197.180](http://www.leg.state.or.us/ors/197.html), [OAR 660-030](http://arcweb.sos.state.or.us/pages/rules/oars_600/oar_660/660_tofc.html)

Land-use considerations

To determine whether the proposed rules involve programs or actions that are considered a *land-use action*, DEQ considered:

* Statewide planning goals for specific references. Section III, subsection 2 of the DEQ State Agency Coordination Program[🞂](http://deq05/intranet/working/guidance/stateAgencyCoordinationProgram10-MSD-009.pdf) document identifies the following statewide goal relating to DEQ's authority:

 **Goal Title**

 5 Open Spaces, Scenic and Historic Areas, and Natural Resources

 6 Air, Water and Land Resources Quality

 11 Public Facilities and Services

 16 Estuarial resources

 19 Ocean Resources

* [OAR 340-018-0030](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_018.html) for EQC rules on land-use coordination. Division 18 requires DEQ to determine whether proposed rules will significantly affect land use. If yes, how will DEQ:
	+ Comply with statewide land-use goals, and
	+ Ensure compatibility with acknowledged comprehensive plans, which DEQ most commonly achieves by requiring a [Land Use Compatibility Statement](http://www.deq.state.or.us/pubs/permithandbook/lucs.htm).
* DEQ’s mandate to protect public health and safety and the environment.
* Whether DEQ is the primary authority that is responsible for land-use programs or actions in the proposed rules.
* Present or future land uses identified in acknowledged comprehensive plans.

Determination

DEQ determined that the proposed rules listed under the Chapter 340 Action section above **do not affect** existing rules, programs or activities that are considered land-use programs and actions in OAR 340-018-0030 or in the DEQ State Agency Coordination Program.

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|   Stakeholder and public involvement |

 Advisory committee

DEQ did not convene an advisory committee. This rulemaking proposal makes necessary amendments to Oregon Administrative Rules which are part of the Oregon State Implementation plan. The proposed changes correspond with revisions to the National Ambient Air Quality Standards for nitrogen dioxide, sulfur dioxide and lead, but do not initiate any new rules or standards that would necessitate convening an advisory committee.

 EQC prior involvement

DEQ shares general rulemaking information with EQC through the annual DEQ Rulemaking Plan review and monthly status report. [OPTION 1] DEQ did not present additional information specific to this proposed rule revision beyond the annual rulemaking plan and the monthly rulemaking report. [OPTION 2] DEQ shared information about this rulemaking with the EQC [2a] at a facilitated hearing on Enter date using style guide format – mmm dd, yyyy, EXAMPLE: Jan. 14, 2013, [2b] through an information item on the mmm dd, yyyy EQC agenda, [2c] and in the Director's Dialogue mmm dd, yyyy.

Public notice

The Enter month and year here, EXAMPLE August 2013[*Oregon Bulletin*](http://arcweb.sos.state.or.us/pages/rules/bulletin/past.html) will publish the Notice of Proposed Rulemaking [OPTION 1] with Hearing [OPTION 2] without Hearing for this rulemaking. DEQ also:

* Posted notice on DEQ’s webpage <http://www.deq.state.or.us/regulations/proposedrules.htm> on mmm dd, yyyy.
* E-mailed notice on mmm dd, yyyy to:
* Approximately #### interested parties through GovDelivery on mmm dd, yyyy.
* #### stakeholders on the Enter other mailing lists here.
* The following key legislators required under [ORS 183.335](http://www.leg.state.or.us/ors/183.html):
	+ Enter name, title, committee here.
	+ Enter name, title, committee here.
	+ Enter name, title, committee here.
* Members of the advisory committee.
* Mailed the notice by U.S. Postal Service to ## interested parties on mmm dd, yyyy.
* Sent notice to EPA on mmm dd, yyyy.
* Enter other notices here on mmm dd, yyyy.

Public hearings

DEQ plans to hold one public hearing(s). The table(s) below includes information about how to participate in the public hearings.

Before taking public comment and according to [Oregon Administrative Rule 137-001-0030](http://arcweb.sos.state.or.us/pages/rules/oars_100/oar_137/137_001.html), [OPTION 1]the presiding officer [OPTION 2]staff presenter [FOR BOTH OPTIONS]will summarized the content of the notice given under [Oregon Revised Statute 183.335](http://www.leg.state.or.us/ors/183.html) and respond to any questions about the rulemaking.

DEQ will add the names, addresses and affiliations of all hearing attendees to the interested parties list for this rule if provided on a registration form or the attendee list. DEQ will consider all oral and written comments received at the hearings listed below before finalizing the proposed rules. All comments will be summarized and DEQ will respond to comments on the Environmental Quality Commission staff report.

Delete the unused hearings tables below. After the team has finalized the information in the table(s), copy them into STAFF.RPT-6.0~. The staff report includes directions on ungrouping hidden rows and deleting rows specific to the notice.

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Close of public comment period

The comment period will close on mmm dd, yyyy at ##:## p.m.