



Oregon Department of Environmental Quality

Dec. 16, 2014

Notice of Proposed Rulemaking

Grants Pass Carbon Monoxide and Particulate Matter (PM₁₀) Limited Maintenance Plans

Overview

Short summary

DEQ proposes rules to update Oregon maintenance plans designed to protect air quality in Grants Pass for carbon monoxide (CO) and for particulate matter 10 microns and smaller (PM₁₀) as required by federal law. Because CO and PM₁₀ pollution levels have been very low and the area is unlikely to exceed health standards in the future, the area qualifies and DEQ proposes limited maintenance plans that streamline requirements and eliminate costly computer modeling requirements for transportation conformity analysis.

DEQ proposes the Oregon Environmental Quality Commission approve the proposed rules for incorporation into the Oregon Clean Air Act State Implementation Plan and submittal to the U. S. Environmental Protection Agency for its approval under the federal Clean Air Act.

Brief history

Under the Clean Air Act, EPA sets air quality standards to protect public health for six common air pollutants. EPA established the CO standard at 35 parts per million for a 1-hour average and at 9 parts per million for an 8-hour average. EPA established the PM₁₀ standard at 150 micrograms per cubic meter for a 24-hour average and at 50 micrograms per cubic meter for an annual average. The Clean Air Act requires communities that exceed these health standards to adopt plans to achieve and maintain good air quality.

In addition to the PM₁₀ standard, EPA adopted the PM_{2.5} standard in 1997, for smaller or fine particulate matter 2.5 microns in size or less, since the smaller inhalable particles have been found to pose a greater health risk. Grants Pass has never violated the PM_{2.5} standard.

In the mid to late 1980s, Grants Pass exceeded the 8-hour CO standard and the 24-hour PM₁₀ standard. The area was designated as a nonattainment area for CO in 1985 and for PM₁₀ in 1990. In response, EQC adopted attainment plans with CO and PM₁₀ control measures to reduce pollution levels within the urban growth boundary to meet the federal standards. This resulted in significant improvement in air quality and Grants Pass was reclassified to attainment for CO in 2000 and PM₁₀ in 2002. EQC adopted the first maintenance plans for Grants Pass at that time.

EPA requires Oregon to establish second maintenance plans for the Grants Pass area to ensure compliance with the standards through 2025. EPA provides an option for states to adopt simplified plans, called limited maintenance plans, for low-risk areas like Grants Pass. Over the last 25 years,

Grants Pass's CO and PM₁₀ levels have steadily declined and the area is unlikely to exceed these standards again.

Regulated parties

The proposed rules affect the Middle Rogue Metropolitan Planning Organization. The proposed amendment of OAR 340-200-0040 to incorporate the limited maintenance plans into State of Oregon Clean Air Act Implementation Plan does not change the regulated parties.

Request for other options

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

Statement of need

What need would the proposed rule address?

The current CO and PM₁₀ maintenance plans for Grants Pass expire in 2015. EPA requires Oregon to establish a second set of maintenance plans to ensure Grants Pass continues to comply with the CO and PM₁₀ federal health standards through 2025.

Grants Pass's CO and PM₁₀ levels have steadily declined and the area is unlikely to exceed these standards again. EPA guidance allows states the option to adopt a simplified or "limited" maintenance plan if air quality levels are below a certain threshold and there is little risk of a future health standard violation. Grants Pass's CO and PM₁₀ levels are well below this threshold. Under the limited maintenance plan option, no new control measures are required, or the need for costly computer modeling for transportation conformity analysis.

How would the proposed rule address the need?

The proposed rules update the existing maintenance plans for Grants Pass to maintain good air quality for the next 10 years. If adopted, this second set of maintenance plans would be the final maintenance plans required for Grants Pass under the Clean Air Act.

Under the limited maintenance plan option, the second maintenance plan must continue existing control measures from the first maintenance plan. The exception to this is the transportation conformity requirements, which apply to new transportation projects. On-road motor vehicles are a major source of CO emissions in Grants Pass and a smaller but significant source of PM₁₀. However, there have been few new transportation projects in Grants Pass and DEQ expects limited growth in these emissions. Under the limited maintenance plan option, Grants Pass can meet the transportation conformity requirements without the need for a motor vehicle emissions budget (or cap) on emissions and without the need to conduct a regional emissions analysis, which avoids the cost of conducting computer modeling.

The CO limited maintenance plan would continue CO control strategies including federal emission standards for new motor vehicles; Best Available Control Technology requirements for large, new or expanding industrial CO sources; and the residential woodstove curtailment program, which also reduces CO in addition to PM₁₀. Since the majority of CO emissions in Grants Pass are from motor vehicles, federal standards for new motor vehicles have been the most effective measure in reducing CO levels.

The PM₁₀ limited maintenance plan would continue PM₁₀ control strategies, including a residential woodstove curtailment program; a ban on use of uncertified woodstoves; Best Available Control Technology requirements for large new or expanding industrial sources; outdoor open burning restrictions; and prescribed forestry burning smoke management protection.

Both plans would continue to comply with federal health standards. With EPA's approval, DEQ discontinued direct monitoring of CO and PM₁₀ in Grants Pass in 2008 and 2005 respectively, due to very low pollution levels and budget considerations. Under the proposed PM₁₀ limited maintenance plan, DEQ could use an existing PM_{2.5} monitor in Grants Pass to calculate PM₁₀ levels and verify

continued attainment with the standard. For CO, no other direct monitoring exists in Grants Pass, so DEQ would determine continued attainment by tracking CO emission trends (mostly from on-road mobile sources) and confirming that these emissions are continuing to decline.

Both plans must have contingency measures that DEQ would implement in the unlikely event that current trends do not continue to show improved air quality. The first part of the contingency plans addresses the need to prevent a violation of the health standard. To prevent a violation, both plans identify a process by which direct CO and PM₁₀ monitoring would be re-established. The second part addresses action needed if a violation occurs. Should a violation of the federal health standard occur while conducting monitoring, both plans identify a range of corrective actions DEQ would take.

How will DEQ know the rule addressed the need?

If EQC approves the proposed rules, DEQ would submit the rules including the maintenance plans to EPA to be incorporated into the State Implementation Plan required under the Clean Air Act. DEQ would know the need was addressed if EPA approves the rules and if CO and PM₁₀ levels in Grants Pass continue to meet federal health standards.

Rules affected, authorities, supporting documents

Lead division

Environmental Solutions

Program or activity

Air Quality Planning

Chapter 340 action

Amend

OAR 340-200-0040

Statutory authority

ORS 468.020 and 468A.025

Statute implemented

ORS 468A.025 and 468A.035

Documents relied on for rulemaking ORS 183.335(2)(b)(C)

Document title	Document location
EPA guidance document: 2001 Wegman Memo: Limited Maintenance Plan Option for Moderate PM ₁₀ Nonattainment Areas	www.epa.gov/ttn/caaa/t1/memoranda/lmp_final.pdf
EPA guidance document: 1995 Paisie Memo: Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas	http://www.epa.gov/ttn/naaqs/aqmguide/collection/cp2/bakup/19951006_paisie_lmp_nonclassifiable_co_naa.pdf
Grants Pass PM ₁₀ Maintenance Plan, October 4, 2002	Available by contacting DEQ Headquarters, 811 SW 6th Ave., Portland, OR 97204
Grants Pass CO Maintenance Plan, September 13, 1999	Available by contacting DEQ Headquarters, 811 SW 6th Ave., Portland, OR 97204

Fee Analysis

This rulemaking does not involve fees.

Fiscal and Economic Impact

The proposed rules, including the proposed limited maintenance plans, have slight positive fiscal and economic impacts. The limited maintenance plans would streamline existing requirements, require no new control measures and eliminate the need for costly computer modeling for the transportation conformity analysis. For Grants Pass to qualify for these limited plans, DEQ's proposal would carry-over control measures from existing plans that expire in 2015 to the proposed plans.

Statement of Cost of Compliance

1. State and federal agencies

The proposed rules would not affect state or federal agencies directly. Because the proposed rules would greatly simplify transportation conformity requirements, the rules would have a slight positive fiscal and economic effect on DEQ indirectly in the form of reduced staff time spent evaluating Grants Pass's compliance with the limited maintenance plans.

2. Local governments

The proposed rules would have some positive effect on local government in the form of cost savings.

Under the federal Clean Air Act and federal transportation act, metropolitan planning organizations in maintenance areas are subject to transportation conformity rules. The organization for the Grants Pass area is the Middle Rogue Metropolitan Planning Organization.

Each time a new Regional Transportation Plan or Transportation Improvement Program is adopted, the conformity rules require the organization to demonstrate that emissions won't exceed the transportation emissions budgets in the maintenance plans. The organization demonstrates this by preparing a regional emissions analysis which combines computer modeling of the highway system and computer modeling of emission characteristics of the area's cars and trucks. One benefit of the proposed limited maintenance plans is that an emissions budget is no longer needed and the organization can demonstrate conformity without a regional analysis. DEQ estimates that not having to conduct this analysis would save the organization approximately \$30,000.

3. Public

The proposed rules would not affect the public directly. Air pollution creates public health problems that can have negative economic impacts. The proposed rules could create positive economic benefits and improvements in public health and welfare by ensuring Grants Pass continues to comply with the CO and PM₁₀ federal health standards.

4. Large businesses - businesses with more than 50 employees

The proposed rules would not affect large businesses directly because the rules would not create new requirements for businesses.

DEQ anticipates CO or PM₁₀ pollution levels would continue to decline under the proposed limited maintenance plans. However, the proposed rules could have some negative fiscal or economic effect on large businesses indirectly if CO or PM₁₀ pollution levels were to increase and the Grants Pass area were to violate the federal health standards.

Both limited maintenance plans contain contingency plans in the unlikely event of a violation, which would trigger more stringent requirements for new and expanding industry. A violation would trigger DEQ having to reinstate the New Source Review requirement for Lowest Achievable Emission Rate and emission offsets for new and expanding industrial sources pursuant to Oregon Administrative Rule Chapter 340 Division 224. Based on recent trends, DEQ anticipates very little industrial growth in the Grants Pass area, and any new or expanding emission sources that are large businesses may not be large enough trigger the New Source Review requirements. At this time, DEQ cannot accurately estimate the possible fiscal and economic impacts should the contingency plan be triggered, because such impacts are inherently case-specific and DEQ lacks the necessary data to provide an estimate that would not be speculative.

5. Small businesses – businesses with 50 or fewer employees ORS 183.336

The proposed rules would not affect small businesses directly because the rules would not create new requirements for small businesses. The proposed rules would likely have no effect on small business indirectly. As noted for large businesses, both limited maintenance plans contain contingency plans in the unlikely event that the Grants Pass area violates the CO or PM₁₀ standards. A violation would trigger more stringent New Source Review requirements for new and expanding industry. However, small businesses are unlikely to have large enough emission quantities to trigger the requirements.

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| a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule. | None |
| b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule. | None |
| c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule. | None |

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ did not involve small businesses in developing the proposed rules because the rules would likely not affect small businesses.

Documents relied on for fiscal and economic impact

Document title	Document location
EPA guidance document: 2001 Wegman Memo: Limited Maintenance Plan Option for Moderate PM ₁₀ Nonattainment Areas	www.epa.gov/ttn/caaa/t1/memoranda/lmp_final.pdf
EPA guidance document: 1995 Paisie Memo: Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas	http://www.epa.gov/ttn/naaqs/aqmguide/collecion/cp2/bakup/19951006_paisie_lmp_nonclassifiable_co_naa.pdf
Grants Pass PM ₁₀ Maintenance Plan, October 4, 2002	Available by contacting DEQ Headquarters, 811 SW 6th Ave., Portland, OR 97204
Grants Pass CO Maintenance Plan, September 13, 1999	Available by contacting DEQ Headquarters, 811 SW 6th Ave., Portland, OR 97204

Advisory committee

DEQ did not convene an advisory committee because the proposed rules would not create new control measures, they will only extend the applicability of current control measures for another ten years as required under the federal Clean Air Act.

DEQ consulted with the Middle Rogue Metropolitan Planning Organization Technical Advisory Committee during development of the limited maintenance plans to confirm that regional emissions analyses and modeling would no longer be needed to demonstrate conformity and to discuss the schedule for this rulemaking.

Housing cost

To comply with [ORS 183.534](#), 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 affect the Middle Rogue Metropolitan Planning Organization and are not related to housing costs.

Federal relationship

"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..." [ORS 183.332](#)

Relationship to federal requirements

This section complies with [OAR 340-011-0029](#) and [ORS 468A.327](#) to clearly identify the relationship between the proposed rules and applicable federal requirements.

The proposed rules are not “different from or in addition to federal requirements” and impose stringency equivalent to federal requirements.

The proposed rules would ensure that DEQ continues to comply with federal requirements in the Clean Air Act. The proposed limited maintenance plans must demonstrate that the Grants Pass area will continue to meet federal CO and PM₁₀ standards for the next 10 years. EPA policy allows areas that are at low risk of exceeding these standards the option of submitting a simplified limited maintenance plan. The limited maintenance plans provide streamlined requirements, no new control measures and eliminate the need for costly computer modeling for the transportation conformity analysis.

What alternatives did DEQ consider if any?

Since this action is necessary to comply with the requirements of the Clean Air Act, DEQ has not considered other options for this proposal.

Land use

“It is the (Environmental Quality) Commission's policy to coordinate the Department's (DEQ's) programs, rules and actions that affect land use with local acknowledged plans to the fullest degree possible.” [OAR 340-018-0010](#)

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 document identifies the following statewide goal relating to DEQ's authority:

Goal	Title
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- | | |
|----|---|
| 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 |
| 9 | Ocean Resources |

- [OAR 340-018-0030](#) for EQC rules on land-use coordination. Division 18 requires DEQ to determine whether proposed rules will significantly affect land use. If yes, how DEQ will:
 - 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](#).
- DEQ's mandate to protect public health and safety and the environment.
- Whether DEQ is the primary authority 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 **do not affect** existing rules, programs or activities considered land-use programs and actions in OAR 340-018-0030 or in the DEQ State Agency Coordination Program.

Stakeholder and public involvement

Advisory committee

DEQ did not convene an advisory committee because the proposed rules would not create new control measures, they will only extend the applicability of current control measures for another ten years as required under the federal Clean Air Act.

DEQ consulted with the Middle Rogue Metropolitan Planning Organization Technical Advisory Committee during development of the limited maintenance plans to confirm that regional emissions analyses and modeling would no longer be needed to demonstrate conformity and to discuss the schedule for this rulemaking.

EQC prior involvement

DEQ shares general rulemaking information with EQC through the monthly Director's Report. DEQ did not present additional information specific to this proposed rule revision.

Public notice

DEQ provided notice of the Notice of Proposed Rulemaking with Hearing for this rulemaking as follows:

DEQ submitted notice to Secretary of State for publication in the January 2015 [*Oregon Bulletin*](#)

On Dec. 16, 2014, DEQ provided notice to:

- EPA
- The Rulemaking Web page
<http://www.oregon.gov/deq/RulesandRegulations/Pages/2014/RGPLMP.aspx>
- Approximately 7,848 interested parties on the agency's Rulemaking list and Medford-Ashland Air Quality list through GovDelivery.
- The following key legislators required under [ORS 183.335](#):
 - Paul Holvey, Chair, House Energy and Environment Committee
 - Michael Dembrow, Chair, Senate Environment and Natural Resources Committee
 - Representative Wally Hicks
 - Senator Herman Baertschiger Jr.
- Two principle contributors to the limited maintenance plans from the Middle Rogue Metropolitan Planning Organization

DEQ published legal notices in the following newspapers:

<i>Grants Pass Daily Courier</i>	- Dec. 16, 2014
<i>The Oregonian</i>	- Dec. 17, 2014
<i>The Mail Tribune (Medford)</i>	- Dec. 16, 2014

Public hearings and comment

DEQ plans to hold one public hearing. The table below explains how to participate in the hearing.

Before taking public comment and according to [Oregon Administrative Rule 137-001-0030](#), the staff presenter will summarize the content of the notice given under [Oregon Revised Statute 183.335](#) 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 hearing listed below before finalizing the proposed rule. DEQ will summarize all comments and DEQ will respond to comments on the Environmental Quality Commission staff report.

Hearing 1	
Date	January 22, 2015
Time	6 p.m.
Address	Grants Pass City Council Chambers 101 NW 'A' Street
City	Grants Pass, OR 97526
Presiding officer	DEQ Staff
Staff presenter	Brian Finneran

Close of public comment period

The comment period will close Monday, Jan. 26, 2015 at 5 p.m.