



State of Oregon
Department of
Environmental
Quality

Oregon Department of Environmental Quality

April 14, 2014

Notice of Proposed Rulemaking

Air Quality Rule Changes and Updates

Overview

Short summary

DEQ proposes changes to rules as a continuing effort to streamline, reorganize and update Oregon's air quality permit programs to improve air quality with a more efficient and effective permitting program. Previous improvements began with the Environmental Quality Commission's adoption of Revisions to Point Source Air Management Rules in 2001, and Air Quality Permit Program Streamlining and Updates in 2007.

The proposed rules include changes to statewide particulate matter standards and the pre-construction permitting program. This would help align the particulate matter standards with EPA's adoption of the ambient air quality standard for fine particulates, commonly called PM_{2.5}, and ensure Oregon's permitting program protects air quality. The proposal also includes additional pre-construction permitting flexibility for smaller businesses.

To improve community outreach, the proposed rules would allow the use of technological advances when holding public hearings and meetings.

DEQ proposes minor changes to the Heat Smart program and the gasoline dispensing facility rules to improve implementation.

This document organizes and describes the proposed rules under the following nine main categories:

1. Clarify and update air quality regulations
2. Update particulate matter emission standards
3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment
4. Establish two new state air quality area designations – “sustainment” and “re attainment” – to help areas avoid and more quickly end a federal nonattainment designation
5. Identify Lakeview as a state sustainment area while retaining its federal attainment designation
6. Change the pre-construction permitting program, also called New Source Review
7. Provide more flexibility for public hearings and meetings
8. Re-establish woodstove replacement program, called Heat Smart, exemption for small commercial solid fuel boilers that the permitting program regulates
9. Remove annual reporting requirements for small gas stations

Regulated parties

The proposed rules affect:

- All businesses, agencies, and local governments holding air quality permits;
- Businesses required to submit construction approval notices;
- Businesses that sell small solid fuel boilers; and
- Businesses that dispense less than 10,000 gallons of gasoline a month

Statement of need

1. Clarify and update air quality regulations

After years of rulemakings and updates, DEQ proposes reorganizing Oregon's air quality rules. Multiple definitions for the same term, missing details, obsolete or outdated rules and rules that do not align with EPA rules cause confusion and create an ongoing need to clarify and make corrections. This proposal would clarify and update air quality rules to accomplish the following:

What need is DEQ trying to address?	How would the proposed rule address the need?
Air quality rules lack clarity because some important details are missing. This creates problems implementing the air quality program. An example of missing details is the identification of specific compliance methods for determining compliance with an emission standard.	Include missing compliance methods with all standards to make sure businesses know how to comply with the standards.
Procedures included in definitions rather than specific rules cause confusion. Examples of procedures included in definitions are those for determining a <i>major modification</i> , <i>actual emissions</i> and <i>netting basis</i> .	Move procedures from definitions to procedural rules. For example, DEQ proposes moving the procedure for how to determine actual emissions from the definition of "actual emissions" to a procedural rule.
Different definitions for the same term and definitions located in multiple divisions makes it difficult to find a definition or know which definition applies.	Move all common definitions to division 200, General Air Pollution Procedures and Definitions. Provide only one definition per term; and add definitions for undefined terms such as "control efficiency", "internal combustion source" and "removal efficiency."
Tables separate from rule text are difficult to find.	Move tables into the text whenever possible to make the information easier to find, such as significant emission rates, de minimis levels, generic Plant Site Emission Limits, significant impact levels and PSD increments.
Some industries no longer operate in Oregon and there is no longer a need for rules specific to these industries.	Repeal rules for the following specific types of businesses that no longer exist in Oregon: <ul style="list-style-type: none"> • Neutral Sulfite Semi-Chemical Pulp Mills • Sulfite Pulp Mills • Primary Aluminum Standards • Laterite Ore Production of Ferronickel • Charcoal Producing Plants

1. Clarify and update air quality regulations

	<p>If one of these types of businesses wants to build in Oregon, permits would be issued under more stringent federal requirements for new sources. Oregon rules incorporate the federal rules by reference.</p>
<p>Some DEQ rules no longer align with the more stringent EPA standards.</p>	<p>This proposal would repeal the following rules made unnecessary by adoption of other federal or state standards:</p> <ul style="list-style-type: none">• EPA adopted national rules that apply to manufacturers of consumer spray paint. Therefore, DEQ proposes repealing incompatible state rules. The federal rules will continue to reduce ozone from consumer products.• DEQ worked with the western states on a general sulfur dioxide trading program to address regional haze. Oregon no longer needs the trading program because Oregon subsequently adopted individual emission limits based on Best Available Retrofit Technology requirements to directly reduce haze-causing emissions from sources like the PGE Boardman plant.• EPA's rules for commercial and industrial solid waste incineration require forced-air pit or air curtain incinerators to have Title V air quality permits. Therefore, Oregon no longer needs the open burning rules to regulate emissions from forced-air pit or air curtain incinerators because the less stringent DEQ rules would create a conflict with EPA's rules.
<p>DEQ last updated the Source Sampling Manual and Continuous Monitoring Manual in 1992. Portions of the manuals are no longer current.</p>	<p>The proposal would adopt updates to the manuals that incorporate revised EPA methods for measuring fine particulate matter and other changes to sampling and monitoring methods made since 1992.</p>

2. Update particulate matter emission standards

Like many other states, Oregon adopted statewide particulate matter standards in 1970 as part of Oregon's initial State Implementation Plan that included less protective standards for grandfathered businesses in operation at that time. Since that time, health researchers concluded that exposure to particulate pollution is more harmful than previously indicated. As a result, EPA lowered the ambient air quality standard for particulates from 260 micrograms/cubic meter and established separate standards for coarse particulates at 150 micrograms/cubic meter and fine particulates at 35 micrograms/cubic meter.

With these changes in ambient air quality standards over the years, the statewide standards for grandfathered businesses no longer protect air quality. Emissions from grandfathered businesses subject to particulate matter standards for sources built before 1970 can harm public health and create barriers to economic development. With the adoption of the fine particulate ambient air quality standard in 2011, Klamath Falls and Oakridge are now designated nonattainment for fine particulate; Lakeview violates the standard, but to date EPA has not designated the area nonattainment; and numerous other areas in Oregon are just below the standard.

Work on the Klamath Falls fine particulate attainment plan showed that impacts from a single grandfathered business could consume a significant portion of the available airshed when the background concentration is added to the business's impacts. DEQ found similar results when analyzing emissions from a grandfathered business near Lakeview. Routine exposure to air pollution at these levels can cause significant health impacts to sensitive individuals. In addition to the risk to public health, emissions from the grandfathered businesses can interfere with economic development. If a single business consumes the majority of the airshed that is available in an area, other businesses may not be able to expand and new businesses may not be able to come into the area.

DEQ relies on two types of general standards to control emissions from permitted sources of particulate matter such as dust or smoke. One type of standard sets concentration-based emission limits as mass per unit volume of exhaust gas. A second type of standard, referred to as a visible emissions standard, limits the maximum visual density, or opacity, of a plume. The rules include different particulate concentration and opacity standards for units installed before or after 1970:

Pre-1970 unit 0.2 grain/dry standard cubic foot (gr/dscf) and 40 percent opacity

Post-1970 unit 0.1 gr/dscf and 20 percent opacity

What need would this address?	How would the proposed rule address the need?
The intent of the proposed amendments to statewide particulate matter standards is to help prevent additional violations of the fine particulate standard in the future. Once EPA designates an area as nonattainment, DEQ and the local government must adopt an attainment plan. Attainment plans for fine particulate nonattainment areas typically include stringent regulations to reduce emissions from existing and new industry, residences and commercial establishments. Reducing emissions	The proposed rules would affect both the statewide particulate matter and opacity standards for grandfathered units built before June 1970 by phasing in a requirement for these businesses to meet lower standards based on typically available control technology. The proposal would allow five-year transition period, until Jan. 1, 2020, but includes an opportunity for a one-year extension, if necessary.

2. Update particulate matter emission standards

from grandfathered businesses before areas exceed ambient air quality standards and are designated nonattainment helps avoid the costs of developing and implementing attainment plans. This would help avoid severe restrictions for businesses that want to build or expand in these areas. An example of the type of restrictions imposed on businesses when developing PM_{2.5} attainment plans are in the rules adopted for the Medford/Ashland AQMA PM₁₀ attainment plan under OAR 340-240-0100 through 340-240-0250.

The proposed rules provide an option to request a source specific limit if boiler/multiclone optimization does not result in emissions low enough to meet the revised standards. This would ensure that that the proposed rules would not require any business to replace a boiler or convert to fossil fuel.

The intent of the proposed amendments is to ensure that Oregon's particulate standards are consistent with current EPA policy for significant figures when determining compliance with standards. Oregon's current standards have only one significant figure (e.g., 0.1 gr/dscf) whereas EPA expects all standards to have two significant figures (e.g., 0.10 gr/dscf) when comparing measured emissions data to the standards.

The proposed rules would add a significant figure to all the particulate matter standards to align with the EPA policy that standards have 2 significant figures,

Oregon based its first adopted opacity standard on an aggregate of three minutes in a 60-minute period. However, Oregon never developed a reference test method for the 3-minute aggregate limit. Not having a reference method for showing compliance makes compliance with, or enforcement of, a standard difficult. As a workaround to show compliance with this standard, Oregon businesses have used a *modified* EPA Method 9.

The proposed amendments would help ensure that Oregon businesses use a reliable method to measure compliance with the statewide opacity standard that is consistent with EPA and other states' methods.

Current rules for the four-county area around Portland include a 20 percent opacity standard that is an aggregate of 30 seconds in a 60-minute period for non-fuel burning equipment such as material handling equipment. However, just like the statewide standard, Oregon never developed a reference method for the 30-second aggregate limit. The lack of a compliance method makes it difficult to comply with or enforce emissions standards.

All opacity standards, both statewide and industry specific, would be amended to a 6-minute block average except for the recovery furnace opacity limit which remains the same. A 6-minute block average standard is consistent with other states in the region and EPA, and is compatible with EPA's Method 9 reference test method. DEQ does not expect this to change the overall stringency of the standards.

This proposal would repeal the Portland-area four-county 20 percent opacity standard. This means that non-fuel burning equipment in this area would be subject to the statewide opacity standard. This would eliminate the same problem of complying with or enforcing the standard.

Fugitive particulate matter emissions are not emitted from a stack and typically originate from storage piles, material conveying systems, unpaved

The proposed amendments would require businesses to take reasonable precautions to prevent fugitive emissions and to develop and implement a

2. Update particulate matter emission standards

roads or other dusty activities. In many situations, it is possible to take opacity readings to determine if the emitting source exceeded the opacity standard and then require action to abate the emissions. However, in other situations, opacity readings are difficult to take or the emissions do not exceed the opacity standard but are nevertheless objectionable. Therefore, DEQ needs a different method for addressing opacity from fugitive emission sources.

fugitive emissions control plan upon request by DEQ to prevent visible emissions from leaving the property. This is a simpler, more comprehensive and more effective approach to controlling these emissions than the current approach, which requires DEQ to make a nuisance determination outside of special control areas. EPA Method 22, Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares would be used to determine compliance. Method 22 is specific for fugitive sources and would be a much better method for determining compliance than the current use of EPA Method 9.

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

Federal law requires Title V permits to account for emissions from all activities, including activities that are considered insignificant and which do not warrant the kind of effort applied to permitting the main emitting activities at regulated sources. When Oregon established the Title V permitting program in 1993, DEQ developed a list of “categorically insignificant activities” that may take place at a source but which are not individually addressed in the permit. This list includes activities such as:

- Janitorial activities
- Groundskeeping activities
- Emergency generators

Businesses indicate they have the categorically insignificant activities in their permit applications, but these activities are exempt from rigorous monitoring requirements because emissions from these activities were determined to be insignificant compared to other activities onsite.

What need would this address?	How would the proposed rule address the need?
<p>EPA recently adopted National Emission Standards for Hazardous Air Pollutants for stationary reciprocating internal combustion engines. That adoption added requirements for emergency generators which are currently exempt from permitting in Oregon because DEQ included them in the list of categorically insignificant activities. In addition, the recent need for large amounts of backup power from emergency generators at data centers has shown that emissions from emergency generators can be significant.</p> <p>DEQ determined that small fuel burning equipment,</p>	<p>The proposal would remove emergency generators and small natural gas or oil-fired equipment from the list of categorically insignificant activities if:</p> <ul style="list-style-type: none">• Those units are above size thresholds that make them subject to emission limits, or• Their aggregate emissions are greater than de minimis levels. <p>Under this proposal, DEQ would add these activities to existing permits. In cases where emissions from these activities exceed permitting thresholds, a non-</p>

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

currently listed as categorically insignificant because each unit has low emissions, could have significant aggregate emissions if a business has multiple units. For example, DEQ identified one business that has 8 small boilers that together have significant potential emissions of approximately 12 tons per year of nitrogen oxides.

permitted business could need a permit for these activities alone.

If the aggregate emissions are less than permitting thresholds, the owner or operator may only need to obtain pre-construction approval from DEQ when installing new units.

4. Establish two new state air quality area designations – “sustainment” and “reattainment” – to help areas avoid and more quickly end a federal nonattainment designation

EPA designates areas that violate federal air quality standards as “nonattainment” areas and designates all other areas as “attainment” or “unclassifiable” areas. Oregon law designates former nonattainment areas that EPA reclassified to attainment as “maintenance” areas to ensure those areas avoid future violations.

If the Environmental Quality Commission approves the proposed rules, the Environmental Quality Commission would be able to designate specific areas of the state as sustainment or reattainment based on a local air quality analysis and public comment. These designations would provide communities and businesses with additional tools and incentives to improve air quality.

What need would this address?	How would the proposed rule address the need?
There are gaps in the current designation system that can create disincentives to improve air quality and unnecessarily impede economic development.	<p>DEQ proposes two new state-only classifications:</p> <ul style="list-style-type: none">• “Sustainment” area for a federally designated attainment area that is approaching or over federal air quality standards, which EPA has not yet designated a nonattainment area.• “Reattainment” area for a federally designated nonattainment area that is meeting air quality standards, which EPA has not yet redesignated an attainment area. <p>These classifications would provide communities and businesses with additional tools and incentives to improve air quality.</p> <p>Based on a local air quality analysis, DEQ recommendations and public comment, EQC would designate specific areas of the state as sustainment or reattainment.</p>

4. Establish two new state air quality area designations – “sustainment” and “reattainment” – to help areas avoid and more quickly end a federal nonattainment designation

One gap is for attainment areas in which the air quality is close to or above the federal ambient air quality standard. While air pollution in these areas can cause health effects, new or modified businesses are not necessarily the sources that contribute to the problem. However, the air pollution levels in the area make it difficult or impossible for new and expanding industrial facilities to demonstrate that their added emissions will not cause or contribute to air quality violations. Currently, the permitting rules for attainment areas do not include provisions for these businesses to offset their emission increases by reducing emissions from existing sources in the area. Designating these areas as nonattainment may be appropriate in some cases. In other cases, a nonattainment designation could impose prescriptive federal requirements and timelines. These requirements and timelines would interfere with the more effective local efforts to improve air quality.

Sustainment areas:

DEQ would work with the local community to determine if a state sustainment designation would be the best approach to improve air quality and prevent a nonattainment designation. DEQ would identify potential sustainment areas based on an air quality analysis that may include monitoring, development of an emission inventory, and air quality modeling. The analysis would identify the air pollution sources that primarily contribute to public health concerns, and a boundary for the potential sustainment area. DEQ would then propose the sustainment designation for public comment through the rulemaking process.

An area that the EQC designates as sustainment would remain a federal attainment area. However, the rules for sustainment areas would address industrial source emissions that the community could rely upon as part of an overall plan, such as EPA’s PM Advance program, for improving the ambient air quality. Within a sustainment area, new and modified facilities would receive incentives to obtain emission offsets from the existing air pollution sources identified as the primary cause of degraded air quality in the sustainment area under category 6 below.

A second gap is for nonattainment areas that have met federal ambient air quality standards by implementing an approved attainment plan. For these areas to be designated as federal attainment areas and state maintenance areas, DEQ must develop and EPA must approve a long-term air quality maintenance plan. In developing the maintenance plan, DEQ may determine that some elements of the attainment plan are no longer required to maintain air quality. However, until EPA redesignates the area to attainment – a process that can take years – the area must continue implementing all elements of the attainment plan.

Reattainment areas:

DEQ would propose a state reattainment designation for a federal nonattainment area with an approved attainment plan in which air quality reliably meets the federal ambient air quality standard. The potential for a reattainment area designation would create an incentive for a community to improve air quality as quickly as possible. The boundary for the reattainment area would be the same as the nonattainment area boundary.

An area that the EQC designates as reattainment would remain a federal nonattainment area, and all elements of the area’s attainment plan would continue to apply until EPA approves a

4. Establish two new state air quality area designations – “sustainment” and “reattainment” – to help areas avoid and more quickly end a federal nonattainment designation

maintenance plan and redesignates the area to attainment. However, within the reattainment area, new and modified facilities that fall below the federal major source threshold would be subject to less stringent requirements provided they were not identified by DEQ as a significant contributor to the air quality problems in the area under category 6 below.

5. Identify Lakeview as a state sustainment area while retaining its federal attainment designation

Air quality in Lakeview currently exceeds the ambient air quality standards for fine particulates. However, EPA has not yet designated Lakeview a nonattainment area because Lakeview was not exceeding the standard at the time EPA made its designations throughout the country. Oregon did not have the required three years of monitoring data to determine if the area was violating the federal standards.

What need would this address?	How would the proposed rule address the need?
Lakeview’s status as violating the federal air quality standard without a nonattainment designation has created problems in permitting new and modified facilities. The construction approval process for attainment and unclassified areas includes an analysis that a new or expanding major source will not cause or contribute to a violation of air quality standards. However, this test is not possible to meet for an area that already violates the standards. This, in effect, prevents DEQ from approving construction permits for new and expanding facilities in Lakeview.	<p>The proposed rules would designate Lakeview as a state sustainment area proposed under category 4 above. While Lakeview would retain its federal designation as an attainment area, a state designation of sustainment would help the community in its efforts to improve air quality by:</p> <ul style="list-style-type: none"> • Providing more flexible permitting requirements for non-federal major emission sources and • Avoiding a federal nonattainment designation. <p>Attachment A to this document includes DEQ’s technical analysis to identify the boundary and primary sources of air pollution in the proposed sustainment area.</p>
Designating Lakeview as a nonattainment area would preclude the community’s active voluntary efforts to meet federal air quality standards under the PM Advance program.	The Lakeview community voluntarily participates in EPA’s “PM Advance” program to develop an air quality improvement and prevention plan. Local officials hope to bring the area quickly back into attainment with the standard to avoid a federal nonattainment designation and the resulting impacts on costs for businesses seeking to locate there. DEQ

assists the community with technical analysis and administrative support for the PM Advance planning process.

The PM Advance plan that Lakeview is currently developing outside the rulemaking process will address all PM_{2.5} emission sources, including residential wood stoves and open burning. DEQ determined that the PM Advance plan and designation as a sustainment area would complement each other to address stationary sources within the Lakeview area.

Under the sustainment area designation, new and expanding businesses that fall below the federal major source threshold of 250 tons/year of particulate matter could be permitted by obtaining offsets under category 6 below. The offset requirement would be lowered for businesses that obtain offsets from residential wood heating, which is the primary cause of air quality violations in Lakeview.

6. Change the pre-construction permitting program also called New Source Review

DEQ proposes changes to the New Source Review program to improve air quality in all areas of the state, especially those that are close to or exceed ambient air quality standards. New Source Review is a federally required preconstruction program that ensures new or modified facilities install the latest control technologies and do not have adverse impacts on ambient air quality standards. The intent of the Prevention of Significant Deterioration portion of the New Source Review program is to prevent degradation of air quality in areas that meet federal air quality standards. The intent of the nonattainment New Source Review program is to improve the air quality in designated nonattainment areas that violate air quality standards. This proposal would also establish New Source Review requirements for the proposed new sustainment and reattainment area designations described in category 4 above.

What need would this address?

The current New Source Review program rules do not distinguish between requirements for facilities that emit more than the federal major source threshold and those that emit less. Federal law requires states to have both a major and a minor New Source Review program. The requirements for the major New Source Review program are very prescriptive. States have more flexibility in designing the minor New Source Review program if the state demonstrates that it will protect air quality. Oregon's current requirements for minor and major New Source Review are the same. This limits

How would the proposed rule address the need?

The proposed rules for new and modified facilities would distinguish those facilities above the federal major source threshold from facilities below the threshold. To do this, the amendments would:

- Amend the definition of a major source to match the EPA definition.
- Establish a minor New Source Review program for smaller businesses called "State New Source Review."
- Tailor New Source Review requirements for smaller businesses to the air quality needs of an

6. Change the pre-construction permitting program also called New Source Review

DEQ's ability to use the minor New Source Review program in the most effective way to protect air quality while enabling economic development.

area in ways that cannot apply to larger businesses because of EPA requirements.

Current criteria for determining if a major new or modified facility would improve air quality in or near a nonattainment or maintenance area are known as Net Air Quality Benefit. The criteria:

- Are based solely on air quality modeling
- Are impossible for businesses to meet, unless the increasing and offsetting businesses are co-located
- Prevent potentially more beneficial local air pollution reduction projects from occurring, thereby creating an unnecessary construction ban
- Require new or modified businesses to reduce emissions from other existing businesses and demonstrate that together the emission increases and reductions result in improved air quality at most receptors within the area.

The rule amendments would establish a new process for companies proposing a new or modified facility in or near a nonattainment, sustainment or maintenance area. The proposal provides a simplified modeling demonstration that requires emission offsets to be greater than emission increases. The offset ratio would depend on:

- The area classification, and
- Whether the new or modified source of emissions is a federal major source or minor source.

The proposed rules would provide incentives for new or modified businesses to help address ambient air quality problems. The incentives would reduce the emission-offset ratio if the business obtains reductions from priority sources, those that primarily cause air quality problems in the local area. In addition, the proposed rules would ensure no degradation of air quality in relation to the ambient monitoring for the area.

The current New Source Review program rules allow extensions of construction permits for good cause. The rules do not include criteria for approving or denying extensions of construction permits or the number of extensions allowed.

Allowing construction permits to be extended multiple times without limit or additional review could:

- Tie up the business's designated portion of the airshed indefinitely;
- Result in the installation of less effective control technology if control technology has improved since the approval of the original construction permit.; and
- Result in higher impacts on air quality than necessary.

The proposed rules provide two 18-month extensions and procedures for requesting and approving extensions for New Source Review construction permits. For the first extension, the proposed rules would require a review of any new pollution control technologies that could be applied to the proposed source. For the second extension, the proposed rules would require a review of the pollution control technology, as well as a review of the impacts on the ambient air quality in the area.

7. Provide more flexibility for public hearings and meetings

DEQ is committed to public engagement and staying up-to-date with emerging and innovative ways to reach people and hold hearings. This proposal would make it easier and cheaper for people to participate. Current rules require DEQ to hold informational meetings on the most complex permit actions and public hearings when requested. The requirements are very prescriptive and in some cases do not allow DEQ to use technology such as the internet to hold “virtual” meetings.

What need would this address?	How would the proposed rule address the need?
The existing rules are very prescriptive regarding how DEQ holds public hearings and meetings for air quality permits. DEQ first adopted these rules in 1974, long before the technological advances that are currently available. Traveling to hearings and meetings around the state can be resource intensive and wasteful if no one attends.	The proposed rules would make it easier and cheaper for people to participate in public hearings and meetings by removing the prescriptive language from the rules.

8. Reestablish woodstove replacement program, called Heat Smart, exemption for small commercial solid fuel boilers that are regulated by the permitting program

DEQ proposes revisions to residential wood heating rules to remedy the inadvertent prohibition to sell small commercial biomass boilers in Oregon. DEQ’s Heat Smart program requires biomass and other solid fuel burning devices that have heat output less than 1 million Btu per hour to meet certification requirements. The existing rules exempt small biomass boilers from certification requirements if they are subject to federal National Emission Standards for Hazardous Air Pollutants. However, EPA revised its rules in 2012 to exempt small biomass boilers from these standards. The proposed rules reestablish the Heat Smart exemption for small commercial biomass boilers regulated through the construction approval and permit programs.

What need would this address?	How would the proposed rule address the need?
DEQ’s existing rules exempt small biomass boilers from the Heat Smart program if they are subject to National Emission Standards for Hazardous Air Pollutants. The Heat Smart Program is intended to ensure that commercial and residential wood stoves and other wood heating devices meet certification standards, which were not designed to apply to biomass boilers. However, EPA recently exempted small biomass boilers from the National Emission Standards for Hazardous Air Pollutants, which inadvertently subjected these devices to the Heat Smart rules. This, in effect, prevents small commercial biomass boilers with heat output less than 1 million Btu per hour from being sold in Oregon.	The proposed rule changes would provide a pathway for small scale commercial biomass boilers to be sold in Oregon again, while ensuring they are still subject to existing state limits on particulate matter and opacity. This proposal would eliminate the reference to the federal regulations and allow these boilers (those with a heat output less than 1 million Btu per hour) to be sold in Oregon.

9. Remove annual reporting requirements for small gas stations

DEQ proposes repealing the annual reporting requirement for small gasoline dispensing facilities after finding the reports unnecessary to ensure compliance with emission standards that prevent leaks and spills.

What need would this address?	How would the proposed rule address the need?
<p>A gasoline dispensing facility with a monthly throughput of less than 10,000 gallons of gasoline is currently required to:</p> <ul style="list-style-type: none"> • Meet work practice standards • Have a submerged fill tube installed on any tank at the facility that has a capacity of 250 gallons or more • If subject to the submerged fill tube requirement, submit a one-time initial notification and later a notification of compliance status • Submit annual reports of throughput <p>These facilities are not required to have an air quality permit. DEQ collected one-time throughput data from these facilities and may request additional information if needed. Therefore, DEQ determined the annual reporting requirement for these small gasoline-dispensing facilities is unnecessary.</p>	<p>The proposed rules address this by removing the annual reporting requirement for facilities with monthly throughput less than 10,000 gallons. As mentioned above, DEQ would still have the authority to request throughput information from these facilities. DEQ will request this information as needed for businesses close to the 10,000-gallon permitting threshold.</p>

How will DEQ know the problem has been solved?

If adopted by the EQC after consideration of public comments, DEQ would submit the rules to EPA to update Oregon's State Implementation Plan. DEQ would know the goals of this rulemaking have been addressed when EPA reviews and approves the State Implementation Plan revision.

Request for other options

During the public comment period, DEQ requests public comment on whether to consider other options for achieving the substantive goals of the proposed rules while reducing any negative economic impact of the rules on business. DEQ also requests source test information from owners/operators of equipment that may not be able to meet the proposed grain loading and opacity standards.

Rules affected, authorities, supporting documents

Adopt OAR:

340-200-0035, 340-202-0225, 340-204-0300, 340-204-0310, 340-204-0320, 340-216-0105, 340-222-0046, 340-222-0048, 340-222-0051, 340-224-0025, 340-224-0045, 340-224-0055, 340-224-0200, 340-224-0210, 340-224-0245, 340-224-0250, 340-224-0255, 340-224-0260, 340-224-0270, 340-224-0500, 340-224-0510, 340-224-0520, 340-224-0530, 340-234-0540, 340-240-0050

Amend OAR:

340-200-0010, 340-200-0020, 340-200-0025, 340-200-0030, 340-200-0040, 340-202-0010, 340-202-0050, 340-202-0110, 340-202-0200, 340-202-0210, 340-204-0010, 340-204-0020, 340-204-0030, 340-204-0040, 340-204-0050, 340-204-0060, 340-204-0090, 340-206-0010, 340-206-0020, 340-206-0030, 340-206-0040, 340-206-0050, 340-206-0060, 340-206-0070, 340-208-0010, 340-208-0110, 340-208-0210, 340-208-0300, 340-208-0310, 340-208-0320, 340-208-0450, 340-209-0010, 340-209-0020, 340-209-0030, 340-209-0040, 340-209-0050, 340-209-0060, 340-209-0070, 340-209-0080, 340-210-0010, 340-210-0020, 340-210-0100, 340-210-0110, 340-210-0120, 340-210-0205, 340-210-0215, 340-210-0225, 340-210-0230, 340-210-0240, 340-210-0250, 340-212-0010, 340-212-0120, 340-212-0130, 340-212-0140, 340-212-0150, 340-212-0200, 340-212-0210, 340-212-0220, 340-212-0230, 340-212-0240, 340-212-0250, 340-212-0260, 340-212-0270, 340-212-0280, 340-214-0010, 340-214-0110, 340-214-0114, 340-214-0130, 340-214-0200, 340-214-0210, 340-214-0220, 340-214-0300, 340-214-0310, 340-214-0320, 340-214-0330, 340-214-0340, 340-214-0350, 340-214-0360, 340-216-0020, 340-216-0025, 340-216-0030, 340-216-0040, 340-216-0052, 340-216-0054, 340-216-0056, 340-216-0060, 340-216-0062, 340-216-0064, 340-216-0066, 340-216-0068, 340-216-0070, 340-216-0082, 340-216-0084, 340-216-0090, 340-216-0094, 340-218-0010, 340-218-0020, 340-218-0030, 340-218-0040, 340-218-0050, 340-218-0060, 340-218-0070, 340-218-0080, 340-218-0090, 340-218-0100, 340-218-0110, 340-218-0120, 340-218-0140, 340-218-0150, 340-218-0160, 340-218-0170, 340-218-0190, 340-218-0200, 340-218-0210, 340-218-0220, 340-218-0230, 340-218-0240, 340-220-0010, 340-220-0020, 340-220-0030, 340-220-0040, 340-220-0050, 340-220-0060, 340-220-0070, 340-220-0080, 340-220-0090, 340-220-0100, 340-220-0110, 340-220-0120, 340-220-0130, 340-220-0170, 340-220-0180, 340-220-0190, 340-222-0010, 340-222-0020, 340-222-0030, 340-222-0040, 340-222-0041, 340-222-0042, 340-222-0060, 340-222-0080, 340-222-0090, 340-224-0010, 340-224-0020, 340-224-0030, 340-224-0040, 340-224-0050, 340-224-0060, 340-224-0070, 340-225-0010, 340-225-0020, 340-225-0030, 340-225-0040, 340-225-0045, 340-225-0050, 340-225-0060, 340-225-0070, 340-226-0010, 340-226-0100, 340-226-0120, 340-226-0130, 340-226-0140, 340-226-0210, 340-226-0310, 340-226-0320, 340-226-0400, 340-228-0020, 340-228-0120, 340-228-0130, 340-228-0200, 340-228-0210, 340-228-0300, 340-232-0010, 340-232-0020, 340-232-0030, 340-232-0040, 340-232-0060, 340-232-0080, 340-232-0085, 340-232-0090, 340-232-0100, 340-232-0110, 340-232-0140, 340-232-0150, 340-232-0160, 340-232-0170, 340-232-0180, 340-232-0190, 340-232-0200, 340-232-0220, 340-232-0230, 340-234-0010, 340-234-0100, 340-234-0200, 340-234-0210, 340-234-0220, 340-234-0240, 340-234-0250, 340-234-0270, 340-234-0500, 340-234-0510, 340-234-0520, 340-234-0530, 340-236-0010, 340-236-0310, 340-236-0320, 340-236-0330, 340-236-0410, 340-236-0420, 340-236-0440, 340-236-0500, 340-240-0030, 340-240-0110, 340-240-0120, 340-240-0130, 340-240-0140, 340-240-0160, 340-240-0180, 340-240-0210, 340-240-0220, 340-240-0250, 340-240-0320, 340-240-0330, 340-240-0350, 340-240-0360, 340-240-0410, 340-240-0420, 340-240-0430,

340-240-0510, 340-240-0550, 340-240-0560, 340-240-0610, 340-242-0400, 340-242-0410, 340-242-0420, 340-242-0430, 340-242-0440, 340-242-0510, 340-242-0520, 340-242-0610, 340-242-0620, 340-242-0630, 340-244-0232, 340-244-0234, 340-244-0236, 340-244-0238, 340-244-0239, 340-244-0240, 340-244-0242, 340-244-0244, 340-244-0246, 340-244-0248, 340-244-0250, 340-262-0450, 340-264-0010, 340-264-0030, 340-264-0040, 340-264-0050, 340-264-0060, 340-264-0070, 340-264-0075, 340-264-0078, 340-264-0110, 340-264-0120, 340-264-0130, 340-264-0140, 340-264-0160, 340-264-0170, 340-264-0180, 340-268-0030

Amend and renumber OAR:

current OAR 340-216-0020 Table 1 amended and renumbered to 340-216-8005;
current OAR 340-216-0020 Table 2 amended and renumbered to 340-216-8010;
current OAR 340-222-0043 amended and renumbered to 340-222-0035;
current OAR 340-222-0045 amended and renumbered to 340-222-0055;
current OAR 340-224-0080 amended and renumbered to 340-224-0034;
current OAR 340-224-0100 amended and renumbered to 340-224-0038;
current OAR 340-226-0310 Table 1 amended and renumbered to 340-226-8005;

Repeal OAR:

340-208-0100, 340-208-0200, 340-208-0600, 340-209-0070, 340-214-0400, 340-214-0410, 340-214-0420, 340-214-0430, 340-218-0250, 340-222-0070, 340-225-0090, 340-228-0400, 340-228-0410, 340-228-0420, 340-228-0430, 340-228-0440, 340-228-0450, 340-228-0460, 340-228-0470, 340-228-0480, 340-228-0490, 340-228-0500, 340-228-0510, 340-228-0520, 340-228-0530, 340-234-0300, 340-234-0310, 340-234-0320, 340-234-0330, 340-234-0340, 340-234-0350, 340-234-0360, 340-234-0400, 340-234-0410, 340-234-0420, 340-234-0430, 340-236-0100, 340-236-0110, 340-236-0120, 340-236-0130, 340-236-0140, 340-236-0150, 340-236-0200, 340-236-0210, 340-236-0220, 340-236-0230, 340-236-0430, 340-240-0170, 340-240-0230, 340-240-0310, 340-242-0700, 340-242-0710, 340-242-0720, 340-242-0730, 340-242-0740, 340-242-0750, 340-242-0760, 340-242-0770, 340-242-0780, 340-242-0790, 340-264-0190

Divisions 210, 216 and 218 include rules, programs or activities considered land use programs under the DEQ State Agency Coordination Program.

Statutory authority
ORS 468 and 468A

Statutes implemented
ORS 468, 468A, 468A.025, 468A.035, 468A.040, 468A.050, 468A.055, 468A.070, 468A.135, 468A.155, 468A.310, 468A.327, 468A.460 through 468A.515

Documents relied on for rulemaking [ORS 183.335\(2\)\(b\)\(C\)](#)

Document title	Document location
06/06/90 EPA guidance titled "Performance Test Calculation"	http://www.epa.gov/ttn/emc/rounding.pdf
Standards of Performance for Stationary Compression Ignition Internal Combustion Engines	http://www.gpo.gov/fdsys/pkg/CFR-2011-title40-vol6/pdf/CFR-2011-title40-vol6-part60-subpartIII.pdf
Standards of Performance for Stationary Spark	http://www.gpo.gov/fdsys/pkg/CFR-2011-title40-

Document title	Document location
Ignition Internal Combustion Engines	vol6/pdf/CFR-2011-title40-vol6-part60-subpartJJJ.pdf
National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; New Source Performance Standards for Stationary Internal Combustion Engines	http://www.gpo.gov/fdsys/pkg/FR-2013-01-30/pdf/2013-01288.pdf
Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; Final Rule	http://www.epa.gov/ttn/atw/area/fr18ja08.pdf
Regulations Pertaining to NPDES and WPCF Permits (OAR 340-45)	http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_045.html
2011 Oregon Air Quality Data Summaries	http://www.deq.state.or.us/aq/forms/2011AirQualityAnnualReport.pdf
Regulations Pertaining to NPDES and WPCF Permits (OAR 340-45)	http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_045.html
National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers; Final Rule	http://www.gpo.gov/fdsys/pkg/FR-2013-02-01/pdf/2012-31645.pdf
Stationary Source Reporting Requirements - OAR 340-214-0110	http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_214.html
40 CFR Part 58, Appendix D — Network Design Criteria for Ambient Air Quality Monitoring	http://www.gpo.gov/fdsys/granule/CFR-2012-title40-vol6/CFR-2012-title40-vol6-part58-appD/content-detail.html
A crosswalk of all rules changes, including the rules in the State Implementation Plan, with more detail is available as part of the rulemaking package.	

Fee Analysis

This rulemaking does not involve any change in fees.

Fiscal and economic impacts

The proposed rules would have fiscal and economic impacts on the public, businesses, state agencies and units of local governments. DEQ proposes to:

- ~~Streamlining~~Streamline, ~~reorganizing~~reorganize and ~~updating~~update Oregon's air quality permit programs to improve air quality with a more efficient and effective permitting program
- Amending statewide particulate matter standards and the pre-construction permitting program to align with EPA's adoption of the ambient air quality standard for fine particulate (PM_{2.5}) and respond to problems identified with Oregon's permitting program that must be addressed to protect air quality
- Adding pre-construction permitting flexibility for smaller businesses
- ~~Improving~~Improve community outreach
- ~~Making~~Make minor changes to the woodstove replacement program called Heat Smart ~~program~~ and the gasoline dispensing facility rules to improve implementation.

Statement of Cost of Compliance

Impacts state agencies, units of local government and the public

1. Clarify and update air quality regulations

State agencies: The proposed rules in this category would not have fiscal or economic impacts on other state agencies. DEQ workload would increase until staff becomes familiar with the proposed rules and then would decrease due to improved ~~reorganization~~ and ~~added~~ clarity.

Units of local governments: Proposed rules in this category ~~would not have fiscal or economic impacts on local governments.~~ may have a slight positive fiscal or economic impact on local governments if the rules are easier to use and understand. The magnitude of the impact cannot be quantified because DEQ lacks information to estimate how much time is saved for an individual person by having rules that are easier to understand and use.

Public: This category does not affect the stringency of the rules; therefore, DEQ does not anticipate any direct or indirect fiscal or economic impacts on the public.

2. Update particulate matter emission standards

General Impacts: By proactively updating the particulate matter standards, DEQ hopes to ~~avoid~~ reduce the likelihood of additional nonattainment area designations in Oregon. There are often multiple sources contributing to poor air quality in addition to industry. If EPA designates an area as nonattainment, DEQ is responsible for collaborating with communities that violate federal air pollution health standards to develop a plan that decreases the pollution to safe levels. ~~A recent plan for the Klamath Falls area, that required DEQ to work with the Klamath Falls Air Quality Advisory Committee and other community members, took two years to develop.~~ The recent plan for the

Klamath Falls area took two years to develop. It required DEQ to work with the Klamath Falls Air Quality Advisory Committee and other community members. Approval of the plan by EPA could take an additional 2 to 3 years.

During the development of an attainment plan, DEQ extensively considers impacts on local businesses and the economy. Plan elements try to minimize local economic impacts as much as possible. When EPA designates an area as nonattainment, federal requirements automatically apply to industrial sources, such as requiring the most stringent control equipment for new or expanding sources or reasonable control measures, such as opacity standards, operation and maintenance plans, and fugitive emission plans for existing sources. While DEQ recognizes that these restrictions may prevent some industries from expanding or moving to the nonattainment area, they are designed to help clean the air and ensure the health of all residents.

In addition, if DEQ does not adopt a plan, the federal restrictions become more stringent, such as a higher offset ratio requirement for industry, and the area could even risk losing federal highway funds, both of which could have negative economic impacts.

State agencies: DEQ anticipates the 26 state ~~(and 6 federal government)~~ agencies currently subject to air permitting regulations could experience the negative impacts described in the general impacts section above. Direct compliance with proposed particulate matter standards is not expected to affect any state agencies holding air quality permits. DEQ workload would initially increase but eventually decrease as staff becomes familiar with the proposed rules. Preventing areas from becoming nonattainment would avoid future increases in DEQ workload.

Units of local governments: DEQ anticipates the 55 county and local governments currently subject to air permitting regulations could experience the impacts described in the general impacts section above. Direct compliance with revised particulate matter standards is not expected to affect any units of local government holding air quality permits.

Public: DEQ ~~does not~~ anticipates the proposed rules would not have any direct fiscal or economic impacts on the public due to the lower particulate matter standards. However, indirect impacts could occur if the costs of additional control or process equipment installed to meet lower particulate matter standards increase the costs for services or products. DEQ expects any such price increases to be small but lacks available information to estimate potential increases accurately.

Particulate matter causes serious health problems ranging from increased respiratory and pulmonary symptoms, hospital admissions and emergency room visits, to premature death for people with heart and lung disease. These health problems have negative economic impacts. The proposed rules could create positive economic benefits and improvements in public health and welfare by reducing particulate matter emissions statewide. DEQ lacks available information to estimate the health and welfare benefits but when EPA adopted the current 24-hour PM2.5 national ambient air quality standard in 2006, EPA estimated the following:

- The nationwide cost of meeting the revised 24-hour PM2.5 standards at \$5.4 billion in 2020. This estimate includes the costs of purchasing and installing controls for reducing pollution to meet the standard.
- The revised standards will yield \$9 billion to \$76 billion a year in health and visibility benefits in 2020. Health benefits include reductions in premature death, diseases and symptoms associated with fine particle pollution exposure.

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

General Impacts: The proposed rules may have a negative fiscal and economic impact on state agencies and units of local governments that own emergency generators or multiple small natural gas or oil-fired equipment if these units are required to be permitted. The initial cost of the permit would be ~~approximately~~ \$1,440 with an annual fee of \$1,555~~600~~. For permitted facilities that have this equipment, DEQ would add the new requirements to existing permits at the time of renewal. There may be costs associated with additional recordkeeping depending on current environmental management systems in place but DEQ lacks available information to estimate this cost accurately.

State agencies: DEQ anticipates the 26 state ~~(and 6 federal government)~~ agencies currently subject to air permitting regulations could experience the negative impacts described in the general impacts section above, although DEQ has not identified any state agencies that would be required to get new permits because they own emergency generators or small natural gas or oil-fired equipment. DEQ workload would increase initially but could level off or decrease depending on the number of new facilities that require permits.

Units of local governments: DEQ anticipates the 55 county and local governments currently subject to air permitting regulations could experience the negative impacts described in the general impacts section above, although DEQ has not identified any units of local governments that would be required to get new permits because they own emergency generators or small natural gas or oil-fired equipment.

Public: DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the public because of the requirement to get a new permit or modify an existing permit to add emergency generators or small natural gas or oil-fired equipment. However, the cost of the new permits could increase the cost of services or products, creating an indirect fiscal or economic impact to the public, although DEQ has not identified any businesses that would be required to get new permits because they own emergency generators or small natural gas or oil-fired equipment. DEQ expects such price increases to be small but lacks available information to estimate potential increases accurately.

4. Establish two new state air quality area designations – “sustainment” and “re attainment” - to help areas avoid and more quickly end a federal nonattainment designation.

State agencies: Proposed rules under this category would have no fiscal or economic impacts for other agencies because they are not involved in permitting businesses in the proposed areas. DEQ workload would initially increase as staff becomes familiar with the proposed rules. Designating sustainment areas would avoid future DEQ workload increases if nonattainment area designations are prevented. Designating re attainment areas would require approximately the same work as designating a maintenance area but would happen sooner.

Units of local governments: The proposed rules would have a positive fiscal and economic impact in sustainment areas by allowing businesses to build or expand in the area as long as air quality is protected. The proposed rules would have a positive fiscal and economic impact in re attainment areas because new and modified facilities that fall below the federal major source threshold would be subject to less stringent requirements provided they were not identified as a ~~primary cause of significant contributor to the~~ air quality ~~violations problems~~ in the ~~attainment plan area.~~ DEQ lacks available information to estimate the positive fiscal and economic impacts accurately.

Public: DEQ does not anticipate the proposed rules under this category would have any direct fiscal or economic impacts on the public. However, positive indirect fiscal or economic impacts to the public could occur as more businesses locate in the sustainment or reattainment areas. [DEQ lacks available information to estimate the positive fiscal and economic impacts accurately.](#)

5. Identify Lakeview as a state sustainment area while retaining its federal attainment designation

State agencies: Proposed rules under this category would have no fiscal or economic impacts for other agencies [because they are not involved in permitting businesses in the Lakeview area.](#) DEQ workload would initially increase as staff becomes familiar with the proposed rules. Preventing areas from becoming nonattainment would avoid future DEQ workload increases.

Units of local governments: The proposed rules would have a positive fiscal and economic impact in Lakeview by allowing businesses to build or expand in the area as long as air quality is protected. [DEQ lacks available information to estimate the positive fiscal and economic impacts accurately.](#)

Public: DEQ does not anticipate the proposed Lakeview sustainment area designation would have any direct fiscal or economic impacts on the public. However, positive indirect fiscal or economic impacts to the public could occur as more businesses locate in Lakeview. In addition, if a new business locates in Lakeview and buys woodstove offsets, some members of the public may benefit from woodstove replacements. DEQ expects any monetary benefits in the form of price decreases to be small and lacks available information to estimate potential decreases accurately.

6. Change the pre-construction permitting program (New Source Review)

State agencies: DEQ anticipates the 26 state ~~(and 6 federal government)~~ agencies currently subject to air permitting regulations could experience impacts described under the impact on businesses section below. However, impacts are not likely because these ~~facilities~~ [agencies](#) would probably never trigger New Source Review. [The Federal Land Managers of the National Forest Service and the National Park Service currently review New Source Review permit applications for businesses located close to Class I areas \(usually designated wilderness areas\). Their workload based on the proposed rule changes is not expected to change as a result of the proposed rule changes.](#) DEQ workload would increase, but would eventually decrease, as staff becomes familiar with the proposed rules. Preventing areas from becoming nonattainment would avoid future increases in DEQ workload.

Units of local governments: DEQ anticipates the 55 county and local governments currently subject to air permitting regulations could experience impacts described under the impact on businesses section below. However, impacts are not likely because these ~~facilities~~ [units of local governments](#) would probably never trigger New Source Review.

Public: DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the public. However, the cost of the new permits [\(\\$50,400 for a New Source Review Permit\)](#) could increase the cost of services or products creating an indirect fiscal or economic impact to the public. DEQ expects any such price increases for goods or services to be small and lacks available information upon which it could accurately estimate potential increases.

7. Provide more flexibility for public hearings and meetings

General Impacts: The proposed rules would have a positive fiscal and economic impact on hearing/meeting attendees because they would be able to call in from around the state rather than

traveling to the hearing ~~or~~ meeting. Cost savings depend on the physical location of the hearing/meeting. DEQ lacks available information to estimate costs to attendees because the travel distance is unknown.

State agencies: The proposed rules could decrease travel and associated staff expenses for state agencies. [DEQ lacks available information to estimate costs to attendees because the travel distance is unknown.](#) The proposed rules would have a positive fiscal and economic impact on DEQ because DEQ would have the flexibility to hold virtual hearings with people calling in from around the state. This would reduce travel expenses. Currently, DEQ staff travels to hearings/meetings, not knowing whether there will be any attendees. DEQ tries to hold hearings/meetings in offices that are free of charge. The cost of using a state car is \$0.~~565~~56/mile and accommodation rates are approximately \$~~83~~77 to \$1~~26~~43 per night. The average hourly rate of a permit writer, including benefits, is \$70 to \$85/hour. The cost of the hearing/meeting depends on how far staff must travel. If the physical location is 2 hours away, the cost could be approximately \$2000. At least \$800 of that cost is due to transportation. DEQ workload may increase ~~initially or decrease~~ depending on implementation [of the proposed rule changes but is expected to decrease as staff becomes familiar with the procedures of holding virtual hearings and meetings.](#)

Units of local governments: The proposed rules could decrease travel and associated staff expenses for local governments. [DEQ lacks available information to estimate costs to attendees because the travel distance is unknown.](#)

Public: The proposed rules could decrease travel expenses for the public because it has more flexibility in attending public hearings and meetings. The public may experience positive indirect fiscal or economic impacts due to efficient use of resources and the ease of attending meetings anywhere in the state. DEQ expects costs to be small per individual but lacks available information to estimate potential decreases accurately [because the travel distance is unknown.](#)

8. Reestablish [the woodstove replacement program, called Heat Smart](#), exemption for small commercial solid fuel boilers that are regulated by the permitting program

State agencies: The proposed rules in this category would not have fiscal or economic impacts on other state agencies [because they do not sell commercial solid fuel boilers.](#) DEQ workload would not change because these rules reestablish a pathway for small-scale industrial, commercial and institutional boilers to be sold in Oregon again.

Units of local governments: Units of local governments would not have a fiscal and economic impact under this category [because they do not sell commercial solid fuel boilers.](#)

Public: DEQ does not anticipate any direct, negative fiscal or economic impacts from the proposed rules on the public [because they do not buy commercial solid fuel boilers.](#)

9. Remove annual reporting requirement for small gasoline dispensing facilities

General Impacts: DEQ anticipates a [very small](#) positive fiscal and economic impact from proposed rules that remove the annual reporting requirement for gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline. The estimated number of gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline is 540. Removing the annual reporting requirement for small gasoline dispensing facilities would reduce the impact of reporting, ~~recordkeeping~~ and other administrative activities on small businesses.

State agencies: DEQ anticipates the 26 state ([and](#) 6 federal government) agencies currently subject to air permitting regulations could experience the positive impacts described in the general impacts section above. The proposed rules would decrease DEQ workload because there would be fewer reports to process and review.

Units of local governments: DEQ anticipates the 55 county and local governments currently subject to air permitting regulations could experience the positive impacts described in the general impacts section above.

Public: DEQ anticipates that there would be ~~a positive~~[no](#) fiscal and economic impact on the public as a result of EQC removing the annual reporting requirement for gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline. DEQ estimates that ~~this any positive~~[impact on gasoline dispensing facilities](#) would be very small and would probably not be passed on to the public or customers.

Impact on businesses – general (see specific impacts on small businesses below)

DEQ anticipates the following fiscal and economic impact on approximately 1130 large businesses and 1550 small businesses.

1. Clarify and update air quality regulations

The proposed rules under this category would not have fiscal or economic impacts on businesses [because the stringency of the rules is not affected](#).

2. Update particulate matter emission standards

Proposed Opacity and Grain Loading Standards:

[DEQ originally considered a much more stringent standard \(0.10 gr/dscf\) for particulate than what is in the current proposal. At that time, DEQ identified 11 businesses at risk of non-compliance with the proposed lower particulate standards without process changes or new or upgraded control equipment. Seven of these businesses are wood products facilities with wood-fired boilers, one is a pulp mill that operates their boiler on residual oil during natural gas curtailment, and three are asphalt plants. The North American Industry Classification System codes were identified for the affected businesses. DEQ ran those codes against third quarter 2013 Oregon census data. Of the 11 businesses, only the three asphalt plants are considered small businesses. No other small businesses were identified as being affected by the proposed rule changes.](#)

[Input from businesses and legislators following workshops provided by DEQ in August 2013 indicated that compliance with the original changes considered by DEQ \(e.g., 0.10 gr/dscf and 20% opacity\) could have significant impacts, possibly requiring boiler replacement or the addition of expensive controls, such as electrostatic precipitators \(see estimated costs below\). DEQ considered the information and proposes alternative standards that are based on well maintained and typically available control technology \(i.e., multiclones for wood-fired boilers\). DEQ has revised the rule proposal to mitigate costs.](#)

[Based on the current proposed rules, DEQ has determined that the owner and operator of two potentially affected wood-fired boilers would have to optimize their boiler or multiclones in order to comply with the proposed opacity and grain loading limits. One wood-fired boiler that currently](#)

has no controls and is not currently operating may be required to install a multicclone system if the business decides to operate the boiler instead of a natural gas-fired boiler currently in use. DEQ anticipates there will be no additional costs to asphalt plants based on the proposed opacity and grain loading standards because of an exemption for pre-1970 facilities that are used less than 10% of the time (less than 876 hours per year).

~~DEQ identified 11 businesses (3 small businesses) that may not be able to comply with the proposed lower particulate standards without process changes or new or upgraded control equipment. Seven of these businesses are wood products facilities with wood-fired boilers, one is a pulp mill that operates their boiler on residual oil only during natural gas curtailment, and three are asphalt plants.~~

Based on inquiry with boiler manufacturers, pollution control vendors, engineering design consultants, and the regulated businesses, as well as information provided by the fiscal advisory committee, DEQ estimates the cost of complying with the proposed standards as follows:

Wood-fired Boilers

Based on a review of ten years of source test data submitted to DEQ, approximately two businesses may need to optimize boiler and/or control equipment performance. One way to optimize performance of a boiler is to conduct a tune-up.

Boiler Tune-ups: ~~Some businesses may need to optimize their boiler operations to comply with the particulate matter standards. Close monitoring of fuel quality may help some boilers comply while others may need tune-ups.~~ Vendors estimated a typical boiler tune-up that requires no replacement parts would cost between \$2,000 and \$11,000. A tune-up may include:

- A visual inspection of the system while operating, looking for obvious things that need repair
- Review of past performance checks & expected performance data
- Gathering performance data (O₂ & CO₂ readings, stack temperature, feed water temperature, fuel moisture, steam flow)
- Making adjustments to ~~furnace~~boiler air delivery settings

A more comprehensive boiler tune-up costs from \$33,000 to \$65,000. A boiler tune-up may or may not allow sources to comply with the new standards over time but could provide other benefits such as reduced fuel costs. Federal law already requires wood-fired boilers to be tuned up every two to five years so this may not be an additional cost. If a tune-up is not adequate to comply, a company may need to optimize their multicclone.

~~If optimizing operations does not achieve compliance with lower grain loading and opacity standards, businesses may need to upgrade or install pollution control equipment. Wood-fired boilers have traditionally been controlled via multicclones and more recently via electrostatic precipitators. Baghouses have been avoided in the forest products industry because of the potential for fires. However, baghouses have been installed on newer boilers designed to produce steam for electric generation. Costs for the addition of wet scrubbers are not included because many wood products businesses do not have wastewater treatment facilities onsite, making wet scrubber technology cost prohibitive.~~

Multiclone Optimization: Nearly all wood-fired boilers in the state already have multiclones. Emissions from ~~wood-fired~~these boilers can be reduced by inspecting the integrity of all parts of the multiclone and checking for and repairing plugged or damaged tubes. A thorough multiclone inspection costs approximately \$3,000 to \$4,000. As part of the inspection, it may be necessary to install access panels and a gauge for accurately measuring the pressure drop across the ~~collector~~multiclone at an additional cost of \$1,000 to \$2,000. Most wood-fired boilers with multiclones already have gauges to measure pressure drop. According to one vendor, the repair or upgrade of a multiclone is estimated to range in cost from \$10,000 to a worst case \$200,000 per boiler, depending on the upgrades that are employed. The upper end cost estimate may be high since it exceeds other vendors' estimates for the cost of a new multiclone.

Another option for multiclone optimization is Flue gas recirculation.÷ Optimum performance of a multiclone occurs within a pressure drop range of about 2 to 4 inches of water column. However, the pressure drop can vary significantly, depending on the gas flow rate through the multiclone. The actual gas flow rate for a wood-fired boiler varies due to many factors, including firing rate and fuel quality. It is possible, however, to optimize multiclone performance with varying firing rates by using flue gas recirculation, which provides a nearly constant gas flow rate and a consistent pressure drop across the multiclone. Installation of flue gas recirculation ranges in cost from \$30,000 to \$100,000.

Engineering Analysis: If a boiler tune-up or multiclone optimization does not enable the boiler to meet the proposed particulate matter standard of 0.15 gr/dscf, the owner or operator of a wood-fired boiler may request a source specific particulate matter limit of 0.17 gr/dscf. Before receiving a source specific particulate matter limit, the owner or operator must submit a report by a registered professional engineer that specializes in boiler/multiclone optimization to evaluate existing equipment optimization options and certify a 0.15 gr/dscf standard cannot be met without installing additional controls. The cost of this engineering report will vary, depending on the reasons for the source specific particulate matter limit, but is expected to be within the range of \$8,000 to \$24,000.

Source test data shows all boilers currently operating in the state can meet 0.17 gr/dscf except for one backup boiler that is currently not being used. If boiler optimization does not allow this boiler to meet 0.17 gr/dscf, this facility may choose to install a multiclone if they decide to operate the backup boiler on wood rather than using the existing natural gas boiler.

Multiclone Installation: Vendors state that compliance with a 0.15 gr/dscf particulate matter standard is possible with multiclones, especially with ceramic high efficiency cones, but is not guaranteed. Ceramic high efficiency cones have been source tested at as low as 0.06 gr/dscf. The range of costs for the purchase and installation of a regular multiclones ~~and installation is~~ approximately \$60,000 to \$1050,000. An Installed high efficiency ceramic ~~high efficiency multiple cyclones~~multiclones cost approximately \$110,000 to \$120,000. Typical iron multiclones last approximately 12 to 15 years before needing replacement. Ceramic multiclones last 3 to 5 times longer than iron multiclones.

~~Engineering Analysis: The owner or operator of a wood-fired boiler may request a source specific particulate matter limit if the cost of installing new pollution control equipment is cost prohibitive. Before receiving a source specific particulate matter limit, the owner or operator must submit a report by a registered professional engineer that specializes in boiler/multiclone optimization to evaluate existing equipment optimization options and the cost of additional controls. The cost of~~

~~this engineering report will vary, depending on the reasons for the source-specific particulate matter limit, but is expected to be approximately \$5,000.~~

Source Testing: -In order to determine if changes to wood-fired boilers or pollution control equipment were effective, source testing is required. A particulate matter source test costs approximately \$12,000. However, businesses are already required to do periodic compliance source testing but depending on their source testing schedule, may not be able to align this source testing with the periodic compliance source testing.

Continuous Opacity Monitoring Systems: An owner or operator may voluntarily choose to install a continuous opacity monitor to ensure compliance with opacity limits at all times. The responsible official for each Title V source is required to submit a compliance certification report every 6 months, saying whether compliance is continuous or intermittent. Opacity is a good indicator of how well a boiler is operated. High opacity is a result of high emissions and can tell the operator that adjustments are needed to reduce emissions. Adding a continuous opacity monitoring system (COMS), along with FGR, would help the operator run the boiler efficiently and in compliance with the emissions standards at all times.

COMS range in costs from \$13,000 to \$30,000 for the monitoring system itself. Installation costs vary, depending on the situation, but range from \$5,000 to \$40,000. Annual operating costs range from \$300 to \$6,000 per year. Equipment and installation cost of a recently installed COMS on a wood-fired boiler ~~was cost~~ \$27,800, which does not include the cost of a computer.

Electrostatic Precipitators: Installation of an electrostatic precipitator is not necessary or anticipated to meet the proposed standards. ~~While not required by the proposed rules, some A businesses may could~~ voluntarily elect to install electrostatic precipitators, which can easily meet 0.15 gr/dscf. The advantage of an ~~ESP-electrostatic precipitator~~ is that it can control emissions over ~~a-the~~ wider range of operating conditions that may ~~vary significantly occur~~ due to changing steam demand and fuel quality. Information from vendors indicates a new ~~ESP-electrostatic precipitator~~ costs approximately ~~\$85700,000~~ to \$2.72 million. One vendor stated that the cost could vary by plus or minus 40 percent, and another vendor indicated a smaller electrostatic precipitator could be used if the goal were simply to comply with the 0.15 gr/dscf standard. Smaller electrostatic precipitators for the affected wood-fired boilers range in costs from approximately \$420,000 to \$700,000 installed. Prior to DEQ revising its proposal, ~~One~~ business informed DEQ it was looking at a used wood-fired package boiler with an electrostatic precipitator for approximately \$500,000.

Boiler Replacement: Boiler replacement is not necessary or anticipated to meet the proposed standards. However, if a business elected to replace a boiler, a new wood-fired boiler with an electrostatic precipitator would cost about \$7 million. This cost is based on a 2006 boiler and electrostatic precipitator installation and does not include demolition costs. A boiler that provides 25,000 pounds of steam per hour is estimated to cost approximately \$5.5 million while a boiler that provides 200,000 pounds per hour is estimated to cost approximately \$17.9 million. These costs include electrostatic precipitators and continuous opacity monitors.

Annualized costs: The following table from “Emission Control for Small Wood-Fired Boilers” prepared for the United States Forest Service, Western Forestry Leadership Coalition in May 2010 shows a good comparison of pollution control equipment costs and PM10 removal.

Cost Effectiveness for Controlling PM10 Emissions

<u>Pollution Control Device</u>	<u>Control Efficiency</u>	<u>PM10 Emissions Removed (tons/year)</u>	<u>Installed Capital Cost of Equipment</u>	<u>Annual Operating Costs</u>	<u>Total Annual Costs</u>	<u>Total Cost per Ton Removed</u>
<u>Cyclone</u>	<u>50%</u>	<u>0.9</u>	<u>\$2,243</u>	<u>\$580</u>	<u>\$791</u>	<u>\$930</u>
<u>Multicyclone</u>	<u>75%</u>	<u>1.3</u>	<u>\$9,424</u>	<u>\$580</u>	<u>\$1,469</u>	<u>\$1,151</u>
<u>HE Multicyclone</u>	<u>99%</u>	<u>1.3</u>	<u>\$62,878</u>	<u>\$800</u>	<u>\$6,980</u>	<u>\$4,159</u>
<u>HE Multicyclone (valved)</u>	<u>99%</u>	<u>1.7</u>	<u>\$125,756</u>	<u>\$800</u>	<u>\$12,915</u>	<u>\$7,695</u>
<u>Core Separator (12")</u>	<u>94%</u>	<u>1.7</u>	<u>\$111,709</u>	<u>\$1,239</u>	<u>\$12,350</u>	<u>\$7,685</u>
<u>Core Separator (24")</u>	<u>72%</u>	<u>1.2</u>	<u>\$63,337</u>	<u>\$1,459</u>	<u>\$8,004</u>	<u>\$6,519</u>
<u>Cyclone + Baghouse</u>	<u>99%</u>	<u>1.7</u>	<u>\$109,878</u>	<u>\$3,920</u>	<u>\$14,291</u>	<u>\$8,483</u>
<u>ESP</u>	<u>95%</u>	<u>1.6</u>	<u>\$138,005</u>	<u>\$1,867</u>	<u>\$14,894</u>	<u>\$9,213</u>

Capital and operating costs were estimated with quotes from, and personal communication with, equipment vendors as well as the methods presented in the "EPA Cost Control Manual."¹ In addition to the size of the wood-fired boiler, the following are factors which cause variability in capital costs and are not accounted for in the EPA Cost Control Manual:

- Change in the price of steel
- Foreign exchange rates for equipment purchased overseas
- Pollution control device design
- Fuel characteristics such as variable firing rates and wet fuels
- Space requirements²
- Ancillary equipment such as ductwork.
- Shipping costs.

Asphalt Plants

The three asphalt plants that were at risk of not being able to meet ~~that may not meet~~ the original concept of 0.10 gr/dscf and 20% opacity ~~lower standards~~ are older plants that utilize wet scrubber controls. Based on available information, asphalt plants will not have a negative fiscal impact from this proposal because of the hours of operation exemption DEQ has added to the proposed rules. ~~In general, asphalt plants with old wet scrubbers that have not been well maintained are the businesses that cannot meet lower particulate matter standards. A major tune-up of an asphalt plant costs approximately \$3,000. Asphalt plant tune-ups can also save money by reducing fuel usage.~~

~~A recent extensive rebuild of an asphalt plant scrubber cost \$13,500 and was tested at 0.035 gr/dscf. New scrubbers are not used to control particulate matter emissions. Asphalt plants need to collect these fine particulate emissions and add them back into their process to meet state void content requirements so the cost of a new scrubber was not included in this analysis.~~

~~Most asphalt plants have upgraded their control equipment to baghouses, especially portable asphalt plants since sources of water can be difficult to find. An asphalt plant consultant recommended changing to a baghouse rather than upgrades to old wet scrubbers to meet the proposed lower~~

¹ EPA Cost Control Manual, Sixth Edition. U.S EPA report #EPA/452/B-02-001, January 2002. Available at: http://www.epa.gov/ttn/catc/dir1/c_allchs.pdf.

² Western Forestry Leadership Coalition & Council of Western State Foresters: Resource Systems Group, Inc. Emission Control Technologies for Small Wood-Fired Boilers – 6 May 2010

~~standards. Installing a used baghouse costs approximately \$50,000 to \$250,000 and the cost of a new baghouse is approximately \$550,000 to \$600,000. Bags should be replaced every 5 years for a pulse jet baghouse and every 8 or 9 years for a rotary baghouse. Bags cost about \$35 each. A baghouse can have 850 to 1,300 bags for a total bag replacement cost of \$30,000 to \$45,500.~~

~~The New Source Performance Standard for asphalt plants constructed or modified after June 11, 1973 is 0.04 grains/dry standard cubic foot, much lower than DEQ's proposal of 0.15 grain/dry standard cubic foot. Many asphalt plants in Oregon are required to meet the New Source Performance Standard.~~

~~Source tests cost \$12,000 to \$13,000. DEQ has source test data from asphalt plants with older inefficient scrubbers that comply with the lower particulate matter standard, so new equipment or additional control equipment may not be necessary.~~

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

The proposed rules may have a negative fiscal and economic impact on businesses that own emergency generators or multiple small natural gas or oil-fired equipment if these units are required to get permits. The cost of the permit is approximately \$1,600. DEQ has not identified any business that would be required to get a permit under the proposed rule. Most of these units would be added to existing permits at the time of renewal. There may be costs associated with additional recordkeeping depending on current environmental managements systems in place. DEQ lacks available information to estimate those costs accurately.

4. Establish two new state air quality area designations – “sustainment” and “reattainment” - to help areas avoid and more quickly end a federal nonattainment designation

~~New Source Review permitting is a case-by-case analysis and the type of pollution controls and computer modeling varies for each case; therefore, DEQ lacks available information to estimate costs to business accurately.~~ The proposed sustainment and reattainment area rules do not significantly change the permitting requirements for the largest sources, known as federal major sources, and therefore have no fiscal or economic impact. Although there is a cost associated with obtaining a permit, DEQ believes there is a net positive fiscal and economic impact for some smaller sources because a source located in a sustainment or reattainment area would have a chance to obtain a permit, whereas without these new area designations it would be impossible for them to obtain a permit.

5. Identify Lakeview as a state sustainment area while retaining its federal attainment designation

~~New Source Review permitting is a case-by-case analysis and the type of pollution controls and computer modeling varies for each case; therefore, DEQ lacks available information to estimate costs to business accurately.~~ The proposed sustainment and reattainment area rules do not significantly change the permitting requirements for the largest sources, known as federal major sources, and therefore have no fiscal or economic impact. Although there is a cost associated with obtaining a permit, DEQ believes there is a net positive fiscal and economic impact for some smaller sources because a source located in a sustainment or reattainment area would have a chance to obtain a permit, whereas without these new area designations it would be impossible for them to obtain a permit.

6. Change the pre-construction permitting program (New Source Review)

The proposed rules may have a negative or positive fiscal and economic impact on businesses that trigger the New Source Review program, depending on the situation.

Establishing a separate minor New Source Review program (State New Source Review) would have a positive fiscal and economic impact on businesses. For [some](#) businesses not allowed to build or modify under the existing rules, there ~~would~~ be a positive fiscal and economic impact since that construction ~~would probably~~ [could](#) be allowed as long as air quality is protected. In areas where DEQ wants to transition back to attainment quicker than EPA could redesignate the area, the proposed rules would allow businesses in the State New Source Review program to meet the maintenance area requirements rather than the more stringent nonattainment area requirements. The control technology in a maintenance area may be less expensive but if it results in lower emission reductions than could be achieved with more expensive technology required in a nonattainment area, more offsets would be required. As a result, there may be higher emission offset costs in maintenance areas if the less expensive control technology allows higher emissions.

The proposed rules addressing how new or modified businesses must improve air quality would raise the amount of offsets a business may be required to get. The cost of industrial offsets varies from \$2,500 per ton to \$100,000 per ton, depending on the pollutant and the demand for offsets. If the business chooses to get the offsets from the sources causing the problem in areas where air quality is close to an ambient air quality standard, the proposed rules allow reduced offsets. Based on current information, the proposed rules would offer the opportunity to obtain offsets from woodstoves. The cost to replace an uncertified woodstove is approximately \$3,000. A certified woodstove would reduce emissions about 0.03 tons per woodstove. The cost of one ton of offsets from woodstoves is approximately \$100,000 per ton.

Providing extensions of a construction permit if construction is delayed would have a positive fiscal and economic impact on the business getting an extension. Fees for extensions are lower than the initial application fee and the business would be allowed to continue to use any offsets obtained under the original application as long as they did not expire.

New Source Review permitting requires a case-by-case analysis, and the type of pollution controls and computer modeling varies for each case; therefore, DEQ is unable to estimate costs in this category accurately.

7. Provide more flexibility for public hearings and meetings

The proposed rules would also have a positive fiscal and economic impact on hearing/meeting attendees because they would be able to call in from around the state rather than travel to the hearing/meeting. Cost savings depend on the physical location of the hearing/meeting [and of the attendees](#).

8. Reestablish Heat Smart exemption for small commercial solid fuel boilers that are regulated by the permitting program

DEQ anticipates there would be a positive economic benefit for businesses that wish to manufacture or use small biomass heating systems in commercial, industrial and institutional applications. The proposed rules would re-establish a pathway for small biomass boilers to be sold for commercial, industrial and institutional uses in Oregon.

9. Remove annual reporting requirement for small gasoline dispensing facilities

DEQ anticipates a positive fiscal and economic impact from proposed rules that remove the annual reporting requirement for gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline. The estimated number of gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline is 540. Removing the annual reporting requirement for small gasoline dispensing facilities would reduce the impact of reporting; ~~recordkeeping~~ and other administrative activities on small businesses.

Impact on small businesses (those with 50 or fewer employees) ORS 183.336

In addition to the fiscal and economic impact described under Impact on business – general above, the proposed rules could have the following impacts on small business.

a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

The proposed rules would require the approximate 1550 small businesses to comply with lower grain loading and opacity standards, many of which already have the lower standards in their permits. Current compliance information indicates that ~~most all~~ small businesses already comply with the proposed standards. ~~Approximately 3 businesses may have to optimize operations or upgrade existing controls.~~

b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

Fewer costs for reporting, recordkeeping or other administrative activities are expected if the amendments are adopted because approximately 540 gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline would not be required to report.

There would be more recordkeeping and reporting for emergency generators and small natural gas or oil-fired equipment over permitting thresholds.

c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

DEQ does not expect additional costs for equipment, supplies, labor or administration if the EQC adopts the proposed rules.

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

DEQ informed small businesses by announcements on the DEQ website, through direct mailings and email lists, stakeholder meetings, a fiscal advisory committee meeting, the DEQ Small Business Compliance Advisory Panel, notices in the Secretary of State Bulletin, and ads in local papers. DEQ requests comments during the public comment period and at public hearings held in the spring of 2014. DEQ plans to hold meetings for businesses to explain the rule changes. DEQ staff will participate in the December Northwest Environmental Conference in Portland informing people about the rulemaking. Attendees at this conference include representatives from large and small businesses.

For Air Contaminant Discharge Permits – Table 1, DEQ relied on OAR 340-216-0020
http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/_340_tables/340-216-0020_3-27.pdf

EPA Air Pollution Control Cost Manual, Report No. 452/B-02-001, January 2002, Section 6, Chapter 1, Baghouses and Filters. http://www.epa.gov/ttn/catc/dir1/cost_toc.pdf

Consumer Price Index Conversion Factors 1774 to estimated 2021 to Convert to Dollars of 1998. 2013 Robert C. Sahr, Political Science, Oregon State University, Rev 05/08/2013.
<http://oregonstate.edu/cla/polisci/sites/default/files/faculty-research/sahr/inflation-conversion/excel/cv1998.xls>

Advisory committee for fiscal and economic impact statement

DEQ appointed a fiscal and economic impact advisory committee for this rulemaking. Members of the fiscal advisory committee included representatives from affected businesses, environmental groups and the general public. The fiscal advisory committee met in January and some of its recommendations were included in the fiscal and economic impact statement. [DEQ also sought input on the fiscal and economic impact statement from its standing Small Business Compliance Advisory Panel.](#)

DEQ will accept comment on the fiscal and economic impact statement during the public notice period.

Housing cost

1. Clarify and update air quality regulations

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 rule only affects the ease of use of DEQ's rules.

2. Update particulate matter emission standards

DEQ determined the proposed rules may have an 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 if the costs for additional control or process equipment are passed through by businesses providing products and services for such development and construction. The possible impact appears to be minimal. DEQ cannot quantify the impact at this time because the information available to it does not indicate whether the costs would be passed on to consumers and any such estimate would be speculative.

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

DEQ determined the proposed rules may have an 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 if the costs for additional permits are passed through by businesses providing products and services for such development and construction. The possible impact appears to be minimal. DEQ cannot quantify the impact at this time because the information available to it does not indicate whether the costs would be passed on to consumers and any such estimate would be speculative.

4. Establish two new state air quality area designations – “sustainment” and “re attainment” - to help areas avoid and more quickly end a federal nonattainment designation

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 rule only affects whether businesses can construct or modify in sustainment or reattainment areas.

5. Identify Lakeview as a state sustainment area while retaining its federal attainment designation

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 rule only affects whether businesses can construct or modify in the Lakeview area.

6. Change the pre-construction permitting program (New Source Review)

DEQ determined the proposed rules may have an 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 if the costs for additional permits, control or process equipment are passed through by businesses providing products and services for such development and construction. The possible impact appears to be minimal. DEQ cannot quantify the impact at this time because the information available to it does not indicate whether the costs would be passed on to consumers and any such estimate would be speculative.

7. Provide more flexibility for public hearings and meetings

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 rule only affects how DEQ can hold public hearings and informational meetings.

8. Reestablish Heat Smart exemption for small commercial solid fuel boilers that are regulated by the permitting program

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. These proposed rules re-establish a pathway for small biomass boilers to be sold for commercial, industrial, and institutional uses in Oregon.

9. Remove annual reporting requirement for small gasoline dispensing facilities

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 rule only affects gasoline dispensing facilities with a monthly throughput of less than 10,000 gallons of gasoline.

Secondary Fiscal Impacts

DEQ asked its fiscal advisory committee members if in addition to the fiscal impacts addressed by ORS 183, are there “secondary” fiscal impacts that DEQ should consider?

- One committee member stated that a secondary impact would occur if small businesses were affected by a mill shutting down.
- One committee member said the cost of any capital improvements would benefit companies that manufacture and install pollution control equipment.
- One committee member stated that there would be a secondary impact if businesses were forced to burn fossil fuel rather than wood.

The proposed rule does not require any business to shut down or change fuels.

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.

1. Clarify and update air quality regulations

Proposed rules in this category are “in addition to federal requirements” to address administrative issues. EPA does not have identical rules to the proposed rules that clarify and update existing DEQ rules.

What alternatives did DEQ consider, if any?

DEQ considered doing nothing, but did not pursue this alternative because there would still be confusion and possible misinterpretations. Also, errors in the rules would be unchanged.

2. Update particulate matter standards

Proposed rules in this category are “in addition to federal requirements” to protect public health and the environment. DEQ has statewide opacity limits for new and existing sources, including fugitive emission sources. There is no equivalent opacity standard for all businesses in EPA regulations. Some New Source Performance Standard have opacity and particulate matter limits for specific regulated industries but nothing that applies to all.

DEQ identified two New Source Performance Standards that have opacity limits for fugitive emissions. The proposed rules are in addition to federal requirements because they would require abatement of any fugitive emissions that leaves the property. Using EPA Method 9 to determine compliance, the New Source Performance Standard for:

- Metallic Mineral Processing Plants (Subpart LL) requires fugitive emissions to meet 10 percent opacity.
- Nonmetallic Mineral Processing Plants (Subpart OOO) contains a limit of 7 percent opacity and allows an affected facility to rely on water carryover from upstream water sprays to control fugitive emissions.

Proposed amendments to the current statewide visible emission standards that apply to non-fugitive sources would put DEQ’s standards substantively equivalent to EPA’s visible emissions standards. DEQ proposes changing the standards from an aggregate period to a six-minute average in order to use EPA Method 9 for determining compliance. The proposed change to add a significant figure to the particulate matter standard from 0.1 gr/dscf to 0.10 gr/dscf would align DEQ rules with applicable federal requirements and policies.

What alternatives did DEQ consider, if any?

DEQ considered not amending Oregon's particulate matter standards. DEQ did not pursue this alternative because protecting air quality and supporting economic development are important to Oregon. Most businesses constructed before 1970 have already updated their facilities and now meet the lower particulate matter standards.

DEQ considered phasing out the standards that apply to pre-1970 sources and requiring all sources to meet the post-1970 standard with the addition of a significant digit (i.e., 0.10 gr/dscf) by January 1, 2019. DEQ held workshops in August 2013 and asked for input on the considered changes. Several businesses provided information suggesting that complying with a limit of 0.10 gr/dscf would present a significant economic hardship.

DEQ considered the information and proposes a different set of standards that will not require any businesses to replace existing equipment or change the type of fuel being used. The changes to the standards are based on well maintained typically available control technology that will minimize particulate matter emissions to the extent practicable without replacing existing equipment.

DEQ considered not amending the averaging time for opacity standards that are currently based on an aggregate of 3 minutes in 60 minutes and 30 seconds in 60 minutes. DEQ did not pursue this alternative because enforcing the standard is questionable without a reference test method for compliance.

DEQ considered not amending the opacity limits for fugitive emission sources. DEQ did not pursue this alternative because it would perpetuate problems implementing the standard and abating fugitive emissions leaving the property boundary reduces emissions more than trying to determine compliance with 20 percent opacity.

3. Change permitting requirements for emergency generators and small natural gas or oil-fired equipment

The proposed rules are "in addition to federal requirements" and protect public health and the environment. The proposed rules would require construction approvals or permits for units whose emissions are significant, but were previously treated as insignificant activities. EPA requires states to have permitting programs for smaller units but does not specify the details of a minor New Source Review program. Because of the Plant Site Emission Limit rules, DEQ permits regulate smaller units than EPA requires.

What alternatives did DEQ consider, if any?

DEQ did not consider any alternatives because leaving the permitting requirements for small sources as is would cause potential violations of the internal combustion engine standards and DEQ rules for operating without a permit.

4. Establish two new state air quality area designations – "sustainment" and "re attainment" - to help areas avoid and more quickly end a federal nonattainment designation

The proposed rules are "in addition to federal requirements." EPA only designates nonattainment areas but the proposed rules would designate other areas, sustainment and

reattainment. This would improve Oregon's New Source Review program to protect public health by improving air quality in areas where needed and providing permitting flexibility for smaller businesses.

What alternatives did DEQ consider, if any?

DEQ considered not designating sustainment and reattainment areas. DEQ did not pursue this alternative because EPA indicated support of the new designations.

5. Identify Lakeview as a state sustainment area while retaining its federal attainment designation

The proposed rules are "in addition to federal requirements." EPA only designates nonattainment areas but the proposed rules would designate other areas, sustainment and reattainment. This would improve Oregon's New Source Review program to protect public health by improving air quality in areas where needed and providing permitting flexibility for smaller businesses.

What alternatives did DEQ consider, if any?

DEQ considered not designating Lakeview a sustainment area. DEQ did not pursue this alternative because Lakeview and county officials support the designation.

6. Change the pre-construction permitting program (New Source Review)

The proposed rules are "in addition to federal requirements." The proposed amendments would modify Oregon's existing permitting rules, continue to protect public health and the environment while addressing economic concerns. Starting in 1982, Oregon's permitting program has had a different structure than the federal program though EPA considers it substantively equivalent. The proposed rules would align some aspects of Oregon's program with EPA's federal program.

Proposed amendments to the definition of a major source would match the EPA definition but would propose different requirements for small and large businesses. The program for smaller businesses would be called State New Source Review. This change, along with the designation of sustainment and reattainment areas would allow more flexibility in permitting smaller sources while continuing to protect the ambient air quality.

The proposed rules would create new differences between the Oregon and EPA New Source Review preconstruction programs by defining two new area designations, sustainment and reattainment. These two new areas would have an important role in avoiding exceedances of the ambient air quality standard and encouraging economic development when a nonattainment area has improved air quality.

DEQ's program, although substantially different from EPA's regulations, provides a workable program equivalent to EPA's to accomplish the same Clean Air Act goal of preventing significant deterioration of air quality.

What alternatives did DEQ consider, if any?

DEQ considered not changing the New Source Review rules. DEQ did not pursue this alternative because there is essentially a construction ban in areas that are over the standard but still designated as attainment. Current rules for demonstrating net air quality

benefit in nonattainment areas are overly prescriptive and do not meet the goals of the program.

7. Provide more flexibility for public hearings and meetings

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

What alternatives did DEQ consider, if any?

DEQ considered not proposing amendments to the requirements for public hearings and meetings. DEQ did not pursue this alternative because the economic benefits and improved effectiveness of using recent technology would improve access to hearings and meetings. This would be easier and cheaper for the public.

8. Reestablish Heat Smart exemption for small commercial solid fuel boilers that are regulated by the permitting program

Heat Smart rules are “in addition to federal requirements.” EPA does not have similar rules.

What alternatives did DEQ consider, if any?

DEQ did not consider other alternatives because this proposal would amend the rules to return it to its previous state, before EPA amended the NESHAP rules.

9. Remove annual reporting requirement for small gasoline dispensing facilities

Proposed rule amendments would remove annual reporting requirement for gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline, consistent with federal requirements. The federal gasoline dispensing facility NESHAP does not require gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline to submit annual reports.

What alternatives did DEQ consider, if any?

DEQ considered not changing the annual reporting requirement for gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline. DEQ did not pursue this alternative because the annual reporting requirement for these small gasoline dispensing facilities is unnecessary. DEQ would still have the authority to request throughput information from these facilities for businesses close to the 10,000 gallon permitting threshold.

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.” [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

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 for EQC rules on land-use coordination. Division 18 requires DEQ to determine whether proposed rules would 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.
- 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 following proposed rules, listed under the Chapter 340 Action section above, are existing rules that affect programs or activities that the DEQ State Agency Coordination Program considers a land-use program:

OAR 340-210	Source Notification Requirements
OAR 340-216	Air Contaminant Discharge Permits
OAR 340-218	Oregon Title V Operating Permits

The air quality permit programs require that a new business provide a Land Use Compatibility Statement from local government when applying for a permit. This assures that the business has an approved use for the property where it is located. Existing permittees have provided a Land Use Compatibility Statements, which are on file with DEQ. This rule proposal does not include any changes to land use procedures in the air quality permitting program.

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules.

- OAR 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans
- OAR 340-018-0050(2)(a) - ensuring compatibility with acknowledged comprehensive plans may be accomplished through a Land Use Compatibility Statement.

Stakeholder and public involvement

Advisory committee

DEQ did not use an Advisory Committee but held several stakeholder meetings in Portland, Pendleton, Eugene and Medford to discuss and allow preliminary input on the potential rules. DEQ sent meeting information to all permitted facilities and people who expressed interest in air quality rulemakings. DEQ sent meeting notifications by postcards; email using Oregon's GovDelivery system, a free e-mail subscription service that provides subscribers with automatic notices of updates to the Oregon DEQ Web page on topics they select; and posted the announcement on the DEQ website. EPA was involved throughout the rule development process.

DEQ also called all the businesses identified as being affected by the more stringent particulate standards and offered to meet with them individually.

EQC prior involvement

DEQ shares general rulemaking information with EQC through the monthly Directors Report and Information Items. DEQ shared information about this rulemaking with the EQC in the Dec. 11, 2013 Director's Report and in Information Item ## on the _____ 2014 EQC agenda.

Public notice

The XXX 2014 *Oregon Bulletin* publishes the Notice of Proposed Rulemaking with Hearing for this rulemaking. On XXX 15, 2014, DEQ also:

- Posted notice on DEQ's webpage
<http://www.oregon.gov/deq/RulesandRegulations/Pages/2013/aqperm.aspx> E-mailed notice to:
 - Approximately 6,500 interested parties through GovDelivery.
 - 1,562 stakeholders, including representatives of facilities holding Title V and Air Contaminant Discharge Permits, through GovDelivery.
 - The following key legislators required under ORS 183.335:
 - Michael Dembrow, Chair, Senate Environment and Natural Resources
 - Representative Jules Bailey, Chair, House Energy and Environment
- Mailed the notice by U.S. Postal Service to 449 stakeholders including representatives of facilities holding Title V and Air Contaminant Discharge Permits.
- Provided legal notice in *The Oregonian* and *Daily Journal of Commerce*.
- Sent notice to EPA.

Public hearings

DEQ plans to hold one statewide public hearing accessible at our regional offices listed in the table below.

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 before completing the draft rules. DEQ will summarize all comments and respond to comments on the Environmental Quality Commission staff report.

Hearing			
Date	XX/XX/2014		
Time	6 pm		
Address	811 SW 6th Ave.	475 NE Bellevue Dr.	221 Stewart Ave
	EQC A	Suite 110	Suite 201
	Portland	Bend	Medford
Presiding officer	George Davis	Walt West	Tom Peterson
Staff presenter	Jill Inahara, Program Operations		

Close of public comment period

The comment period will close on XXX, XX 2014 at 5 p.m.