

# Invitation to Comment

## DEQ Extends Comment Period

### For certain greenhouse gas permitting rules in Air Quality permitting, Heat Smart, and gasoline dispensing facility updates

DEQ invites input on proposed permanent rule amendments, adoption and repeal to chapter 340 of the Oregon Administrative Rules.

#### Update to DEQ proposal

DEQ extended the public comment period for the air quality permitting, Heat Smart and gasoline dispensing facility updates with regard to certain Oregon greenhouse gas permitting rules. Specifically, DEQ extended the public comment period for OAR 340-200-0020, 340-216-0020, 340-216-8010, 340-216-8020 and 340-224-0010 of Chapter 340 of the Oregon Administrative Rules from Aug. 28, 2014 to Sept. 15, 2014.

DEQ extended the public comment period in anticipation that people will want more time to comment on the greenhouse gas permitting rules in light of recent action by the U.S. Supreme Court. DEQ requests public comment on whether Oregon's rules should be retained as they are or revised to agree with the court's ruling.

This is DEQ's third update to its initial proposal issued June 16, 2014. The close of the public comment period for all of the rules in DEQ's initial proposal remains 5 p.m., Aug. 28, 2014, except OAR 340-200-0020, 340-216-0020, 340-216-8010, 340-216-8020 and 340-224-0010. To consider comments on OAR 340-200-0020, 340-216-0020, 340-216-8010, 340-216-8020 and 340-224-0010, DEQ must receive the comment by 5 p.m., Sept. 15, 2014.

#### U.S. Supreme Court action

Considering recent action by the U.S. Supreme Court, DEQ requests public comment on the applicability of Oregon's Prevention of Significant Deterioration requirements and Title V operating permit program requirements for greenhouse gases. DEQ requests public comment on whether Oregon's rules should be retained as they are, revised to agree with the court's ruling, or revised in other ways.

In 2011, the Oregon Environmental Quality Commission adopted Oregon rules equivalent to the U.S. Environmental Protection Agency's greenhouse gas regulations known as the

Tailoring Rule. On June 23, 2014, the U.S. Supreme Court invalidated portions of the federal Tailoring Rule. As a result of the court's ruling, industrial sources of air pollution are no longer subject to federal air quality requirements known as Prevention of Significant Deterioration for greenhouse gases alone. In addition, as a result of the court's ruling, industrial sources are no longer subject to federal Title V permitting requirements for greenhouse gases alone. The ruling retains the requirement that industrial sources triggering Prevention of Significant Deterioration for other pollutants and which also emit greenhouse gases are required to perform Best Available Control Technology analysis for greenhouse gases under specific conditions. The court's action does not invalidate any part of Oregon's rules and those rules remain in effect in Oregon.

#### DEQ proposal

DEQ proposes the following changes to OAR 340 division numbers 200, 202, 204, 206, 208, 209, 210, 212, 214, 216, 218, 220, 222, 224, 225, 226, 228, 232, 234, 236, 240, 242, 244, 246, 262, 264, and 268. See far right column to learn how to comment on this proposal.

The rulemaking proposal would revise air quality permitting, Heat Smart, and gasoline dispensing facility rules including:

- Clarify and update air quality rules
- Update particulate matter emission standards
- Change permitting requirements for emergency generators and small natural gas or oil-fired equipment
- Establish two new state air quality area designations, "sustainment" and "re attainment," to help areas avoid and more quickly end a federal nonattainment designation
- Designate Lakeview as a state sustainment area while retaining its federal attainment designation
- Change the New Source Review preconstruction permitting program
- Modernize methods allowed for holding public hearings and meetings



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[www.oregon.gov/DEQ](http://www.oregon.gov/DEQ)

*DEQ is a leader in  
restoring, maintaining  
and enhancing the  
quality of Oregon's air,  
land and water.*

#### How to submit written comments

**Online**  
[Comment form](#)

**By mail**  
Oregon DEQ  
Attn: Jill Inahara  
811 SW 6<sup>th</sup>  
Avenue  
Portland, OR  
97204

**By fax**  
503-229-5675  
Attn: Jill Inahara

**Hearings have  
already occurred**  
See Public  
Hearings

- Re-establish the Heat Smart woodstove replacement program exemption for small commercial solid fuel boilers regulated under the permitting program
- Remove annual reporting requirements for small gasoline dispensing facilities

### **Rulemaking goal**

The goal of this rulemaking is to ensure DEQ's air quality permitting programs are efficient and effective. This rulemaking would modify DEQ rules to ensure Oregon regulations are up to date and that they address air quality problems.

DEQ expects to see improved air quality and a reduction in the number of businesses that have difficulty interpreting the rules.

DEQ requests public comment on whether to consider other options for achieving these rule's substantive goals while reducing negative economic impact of the rule on business. DEQ's Statement of fiscal and economic impact is in the Notice online at

<http://www.oregon.gov/deq/RulesandRegulations/Pages/2014/AQPerm.aspx>.

DEQ requests public comment on the ability of owners and operators of equipment to meet the proposed particulate standards, specifically the proposed grain loading and opacity standards.

DEQ also requests public comment on whether Lane Regional Air Protection Agency rules are as stringent as DEQ's proposed rules.

### **Who does this affect?**

Parties affected by this proposal include:

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

### **Public hearings**

DEQ held the following public hearings for the proposed rules. DEQ accepted public comment at the hearings.

**Portland, Bend, Medford, Springfield and Pendleton**  
**6 p.m., July 16, 2014**

#### **Portland**

DEQ Headquarters Building, Room EQC A on the 10th Floor, 811 SW Sixth Ave., Portland, OR, 97204

#### **Bend**

DEQ - Bend Regional Office  
 Conference Room  
 475 NE Bellevue Dr., Suite 110  
 Bend, OR 97701

#### **Medford**

DEQ - Medford Regional Office  
 Conference Room  
 221 Stewart Ave., Suite 201  
 Medford, OR 97501

#### **Springfield**

Lane Regional Air Protection Agency  
 1010 Main Street  
 Springfield, OR 97477

#### **Pendleton**

DEQ - Pendleton Regional Office  
 800 SE Emigrant, #330  
 Pendleton, OR 97801

The Presiding Officer for all hearings was DEQ staff.

### **More information**

The Rule Proposal and Notice for this rulemaking are on DEQ's website:

<http://www.oregon.gov/deq/RulesandRegulations/Pages/2014/AQPerm.aspx>

### **Comment deadline**

To consider comments on OAR 340-200-0020, 340-216-0020, 340-216-8010, 340-216-8020 and 340-224-0010, DEQ must receive the comment by **5 p.m., Monday, Sept. 15, 2014.**

To consider comments on all other rules in DEQ's proposal, DEQ must receive the comment by

**5 p.m. Thursday, Aug. 28, 2014.**

### **Sign up for rulemaking notices**

Get email updates about future DEQ proposed rule by signing up at:

<http://www.oregon.gov/deq/RulesandRegulations/Pages/proposedrule.aspx>

### **What has happened so far?**

#### **Advisory committee and stakeholder meetings**

DEQ held stakeholder meetings around the state in Aug. 2013 to receive input and expertise on ideas for preliminary rules. DEQ held a fiscal advisory committee meeting Jan. 23, 2014 to gather recommendations on the adequacy of the draft fiscal impact statement. To comply with

ORS 183.333, DEQ asked for the committee's recommendations on whether the proposed rules would have a fiscal impact, the extent of the impact, and whether the proposed rules would have a significant impact on small businesses and complies with ORS 183.540. DEQ also sought input on the fiscal impact statement from its standing Small Business Compliance Advisory Panel. DEQ incorporated information from industry experts and other stakeholders into the proposed rules.

#### **Documents used to develop proposal**

DEQ relied on Oregon Administrative Rules and EPA rules and guidance when considering the need for the proposed rule and to prepare the rulemaking documents.

To schedule a review, call Jill Inahara at 503-229-5001. In Lane County, contact Max Hueftle at 541-736-1056 or [max@lrapa.org](mailto:max@lrapa.org).

Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach at 503-229-5696 or call toll-free in Oregon at 1-800-452-4011; fax to 503-229-6762; or email to [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us). Hearing impaired persons may call 711.

## **What will happen next?**

#### **We will review all comments**

DEQ will prepare a written response to each comment or summary of similar comments received by the comment deadline. DEQ may modify the rule proposal based on the comments.

Comments or summary of comments and responses will become part of the DEQ staff report that will go to the Oregon [Environmental Quality Commission](#) for final decision.

#### **Present proposal to the EQC**

The Environmental Quality Commission is the board that reviews all proposed changes to division 340 of the Oregon Administrative Rules. The commission adopts, rejects, or adopts with changes, any proposed rule.

DEQ plans to take the completed draft proposal, including any modifications made in response to public comment, to the commission for final decision at its January 2015 meeting.

If EQC approves the proposed rules and incorporating the amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040, DEQ will submit the rules to EPA for approval as a revision to the plan as required by the Clean Air Act.

#### **Accessibility information**

You may review copies of all websites and documents referenced in this announcement at:

Oregon DEQ Headquarters  
811 SW Sixth Ave.  
Portland, OR 97204