



State of Oregon
Department of
Environmental
Quality

Oregon Department of Environmental Quality

March 1, 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 improvement efforts 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.

DEQ proposes changes to statewide particulate matter standards and the pre-construction permitting program that would align with EPA's adoption of the ambient air quality standard for fine particulates, commonly called "PM_{2.5}," and respond to problems identified with Oregon's permitting program that must be addressed to protect air quality. Along with these changes, DEQ proposes additional pre-construction permitting flexibility for smaller businesses.

To improve community outreach, DEQ proposes rules to 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 notice 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 the New Source Review)
7. Provide more flexibility for public hearings and meetings
8. Reestablish Heat Smart exemption for small commercial solid fuel boilers that are regulated by the permitting program
9. Remove annual reporting requirements for small gas stations

Brief history

Below is a brief history for each of the nine main categories of proposed rules.

1. Clarify and update air quality regulations

After years of rulemakings and updates, Oregon's air quality rules need to be reorganized. 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.

2. Update particulate matter emission standards

Like many other states, Oregon adopted statewide particulate matter standards in 1970 that included less protective standards for "grandfathered" businesses that were operating at that time. With changes in ambient air quality standards over the years, the statewide standards for grandfathered businesses no longer protect air quality. Therefore, DEQ proposes to phase-in a transition for the few remaining grandfathered businesses that have not already upgraded to the standard that applies to businesses built since 1970. The proposal includes flexible options and potential extensions to minimize costs and ensure that no biomass boilers would need to be converted to fossil fuel. DEQ also proposes changes to the compliance demonstration method used for the visible emission standard.

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

EPA recently adopted National Emission Standards for Hazardous Air Pollutants for stationary reciprocating internal combustion engines. That adoption added requirements for emergency generators that are currently exempt from permitting in Oregon because DEQ thought they had insignificant emissions. Similarly, small gas and oil-fired equipment are exempt from permitting, although the emissions from groups of this equipment can be significant in the aggregate. The proposal would require permits for these types of sources.

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

Areas that violate federal air quality standards are designed by EPA as "nonattainment" areas, while all other areas are designated as "attainment" or "unclassifiable" areas. Under current Oregon law, former nonattainment areas that are reclassified by EPA to attainment are designated as "maintenance" areas under state law to ensure that they avoid future violations. DEQ proposes to add two new state-only classifications – "sustainment" and "re attainment" areas. Based on DEQ recommendations and public comment, EQC would designate specific areas of the state as sustainment or re attainment based on a local air quality analysis. DEQ would recommend a state sustainment area designation for a federal attainment area that is approaching or over federal air quality standards but is not yet designated as nonattainment by EPA. DEQ would recommend a state re attainment area designation for a federal nonattainment area that is meeting air quality standards but has not yet been redesignated to attainment by EPA. These designations would provide communities and businesses with additional tools and incentives to improve air quality.

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 as a nonattainment area because Lakeview was not exceeding the standard at the time EPA was making designations throughout the country. This makes it nearly impossible for industrial business to build or expand in the Lakeview area because

permitting provisions for areas that violate federal air quality standards are not available in attainment areas. However, 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. Designating Lakeview as a state sustainment area would retain the benefits of a federal attainment designation while providing Lakeview with new tools to improve ambient air quality and more flexible permitting requirements.

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. The proposed rules would clarify permitting requirements, provide more opportunities for businesses to reduce pollution and make it possible for construction projects to demonstrate air quality improvements attributable to the project. The proposal would separate New Source Review requirements for sources above and below the federal major source threshold and would establish New Source Review requirements for the proposed new sustainment and reattainment area designations.

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.

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

DEQ proposes to revise rules for residential wood heating that inadvertently prevent small commercial biomass boilers from being sold 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 that are regulated through the construction approval and permit programs.

9. Remove annual reporting requirements for small gas stations

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

Regulated parties

The proposed rules affect all businesses, agencies, and local governments with air quality permits and regulated by non-permitting rules included in this rulemaking.

Statement of need

Proposed Rule or Topic	Discussion
1. Clarify and update air quality regulations	
What problem is DEQ trying to solve?	<ul style="list-style-type: none"> a. 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. b. 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>. c. Different definitions for the same term and definitions located in multiple divisions makes it difficult to find a definition or know which definition applies. d. Separate tables containing numbers are difficult to find. e. Some industries no longer operate in Oregon and there is no longer a need for rules specific to these industries. f. Some DEQ rules no longer align with more stringent EPA standards. g. DEQ last updated the Source Sampling Manual and Continuous Monitoring Manual in 1992. Portions of the manuals are no longer current.
How would the proposed rule solve the problem?	<p>The proposed rules would clarify and update the air quality rules. DEQ proposes to:</p> <ul style="list-style-type: none"> a. Include missing compliance methods with all standards to make sure businesses know how to comply with the standards. b. Remove procedures from definitions and instead add the procedures to a procedural rule. For example, the procedure for how actual emissions are determined is contained in definitions. DEQ proposes to move this to a procedural rule. c. 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.” d. Move tables containing numbers 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. e. Repeal rules for the following specific types of businesses that no longer exist in

Proposed Rule or Topic	Discussion
	<p>Oregon:</p> <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 <p>If one of these types of businesses wants to build in Oregon, they would be permitted under the more stringent federal requirements for new sources already incorporated into Oregon's rules.</p> <p>f. The 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 to repeal the 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. The trading program is no longer needed 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, open burning rules are no longer needed 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>g. DEQ's Source Sampling Manual and Continuous Monitoring Manual were last adopted in 1992. The proposal would adopt updates to the manuals that incorporate revised EPA methods for fine particulate standards and other changes to sampling and monitoring methods made since 1992.</p>
2. Update particulate matter emission standards	
What problem is DEQ trying to solve?	Emissions from grandfathered businesses that are subject to particulate matter standards for sources built before 1970 can harm public health and create barriers to economic development. 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 considering background concentrations. 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

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	<p>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.</p> <p>DEQ relies on two types of general standards to control emissions from permitted sources of particulate matter (e.g., dust or smoke). One type of standard sets concentration-based emission limits (mass per unit volume of exhaust gas). A second type of standard is referred to as a visible emissions standard that 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:</p> <ul style="list-style-type: none"> • 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 <p>These statewide particulate matter standards were adopted in the early 1970's as part of Oregon's initial State Implementation Plan. Since that time, health researchers have concluded that exposure to particulate pollution is more harmful than previously thought. As a result, EPA has 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 the adoption of the fine particulate ambient air quality standard in 2011, Oregon now has two areas that are designated nonattainment for fine particulate (Klamath Falls and Oakridge), one additional area that violates the standard (Lakeview) and numerous areas that are just below the standard.</p> <p>The proposed changes in the statewide particulate matter standards are intended to help prevent additional violations of the fine particulate standard in the future. Once an area is designated as nonattainment by EPA, DEQ and the local government are required to adopt an attainment plan. Attainment plans for fine particulate nonattainment areas typically include stringent regulations to reduce emissions from existing and new industry as well as residences and commercial establishments. Reducing emissions from grandfathered businesses before areas exceed ambient air quality standards and are designated nonattainment helps avoid the costs of developing and implementing attainment plans, including severe restrictions for businesses that want to build or expand in these areas. The rules adopted for the Medford/Ashland AQMA PM₁₀ attainment plan (OAR 340-240-0100 through 340-240-0250) are an example of the type of restrictions that might be imposed upon businesses when developing PM_{2.5} attainment plans.</p> <p>The proposal is also intended to ensure that Oregon's particulate standards are consistent with current EPA policy for significant figures when determining</p>

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	<p>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.</p> <p>The proposal is further intended to ensure that Oregon businesses use a reliable method to measure compliance with the statewide opacity standard that is consistent with the method used by EPA and other states. When Oregon first adopted the opacity standard, it was based 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 a standard both difficult to comply with and difficult to enforce. As a workaround to show compliance with this standard, Oregon businesses have had to use a <i>modified</i> EPA Method 9.</p> <p>The proposal is intended to address similar problems with a local opacity standard that applies in the Portland area. 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. As stated above, the lack of a compliance method makes it difficult to comply with and difficult to enforce emissions standards.</p> <p>There is also a problem with trying to read opacity from fugitive emission sources. Fugitive particulate matter emissions are not emitted from a stack and typically originate from storage piles, material conveying systems, unpaved 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 to 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.</p>
How would the proposed rule solve the problem?	<p>The proposed changes to existing rules would improve and maintain air quality and facilitate economic development. The proposed changes would:</p> <ul style="list-style-type: none"> • Minimize particulate matter emissions from pre-1970 grandfathered units. • Align the particulate matter standard with EPA policy on determining compliance. • Increase compliance and enforceability of the opacity standard by aligning it with the reference compliance method. • Require abatement of any visible fugitive emissions that leave a business's property, regardless of the actual opacity level <p>The proposed rulemaking changes would affect both the statewide particulate matter</p>

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	<p>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 businesses a five year transition period with an opportunity for an additional extension if necessary. The proposal ensures that no business would be required to replace a boiler or convert to fossil fuel by providing an option to request a source specific limit if boiler/multiclone optimization does result in emissions low enough to meet the revised standards.</p> <p>To align the particulate matter standard with EPA’s policy that standards have 2 significant figures, DEQ is proposing to add a significant figure to all the particulate matter standards.</p> <p>Businesses would have until January 1, 2020 to comply with the revised opacity and particulate matter standards. This five-year compliance schedule is intended to allow businesses time to design and implement the most cost-effective option for meeting the revised standards. As noted above, the proposal would also allow businesses to apply for an extension if needed.</p> <p>The proposed rules would change all opacity standards (both statewide and industry specific) to a 6-minute block average, consistent with other states in the region and EPA. DEQ does not expect this to change the overall stringency of the standards.</p> <p>The proposal would repeal the Portland-area four-county 20 percent opacity standard, so that non-fuel burning equipment in this area would be subject to the statewide opacity standard. This would solve the problems of limited applicability and unenforceability.</p> <p>The proposal would require businesses to take reasonable precautions to prevent fugitive emissions and to develop and implement a 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. Compliance would be determined using EPA Method 22, Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares. Method 22 is specific for fugitive sources and would be a much better method for determining compliance than the method currently used (EPA Method 9).</p>
3. Change permitting for emergency generators and small natural gas or oil-fired equipment	
What problem is DEQ trying to solve?	When Oregon established the Title V permitting program in 1993, DEQ developed a list of insignificant activities to account for all emissions in Title V permits as required by federal law. This list was called “categorically insignificant activities” and includes examples like:

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	<ul style="list-style-type: none"> • Janitorial activities • Groundskeeping activities • Emergency generators <p>Businesses indicate they have the categorically insignificant activities onsite in their permit applications, but these activities are exempt from rigorous monitoring requirements.</p> <p>EPA has since adopted new emission standards for emergency generators which should be specifically addressed in permits. DEQ also discovered that small fuel burning equipment, which is currently listed as categorically insignificant because each unit has low emissions, can have significant emissions in the aggregate 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.</p>
How would the proposed rule solve the problem?	<p>The proposal would remove emergency generators and small natural gas or oil-fired equipment from the list of categorically insignificant activities if those units are above size thresholds that are subject to emission limits or if their emissions in the aggregate are greater than de minimis levels. For businesses with an existing permit, these activities would be added to the permit. In cases where emissions from these activities exceed permitting thresholds, a business could need a permit for these activities alone. If the aggregate emissions are less than permitting thresholds, the owner/operator may only need to obtain pre-construction approval from DEQ when installing new units.</p>
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	
What problem is DEQ trying to solve?	<p>Areas that violate federal ambient air quality standards are designated by EPA as “nonattainment” areas, while all other areas are designated as “attainment” or “unclassifiable” areas. Under current Oregon law, former nonattainment areas that are reclassified by EPA to attainment are designated as “maintenance” areas to ensure that they avoid future violations. However, there are gaps in this designation system that can create disincentives to improve air quality and unnecessary impediments to economic development.</p> <p>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, there is no process to implement prevention planning to avoid a federal nonattainment designation. The air pollution levels also make it difficult or impossible for new and expanding industrial facilities to demonstrate that their added emissions will not cause air quality violations, and the attainment area permitting rules do not include provisions for these businesses to offset their emission increases by reducing emissions from existing sources in the area.</p>

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	<p>Designating these areas as nonattainment may be appropriate in some cases, but in other cases a nonattainment designation could interfere with more effective local efforts to improve air quality by imposing prescriptive federal requirements and timelines.</p> <p>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 the area is redesignated to attainment by EPA – a process that can take years – all of the elements of the attainment plan must continue to be implemented.</p>
How would the proposed rule solve the problem?	<p>DEQ proposes to add two new state-only classifications to fill the gaps in the current classification system – “sustainment” and “reattainment” areas. 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. DEQ would recommend a state sustainment area designation for a federal attainment area that is approaching or over federal air quality standards but is not yet designated as nonattainment by EPA. DEQ would recommend a state reattainment area designation for a federal nonattainment area that is meeting air quality standards but has not yet been redesignated to attainment by EPA.</p> <p><u>Sustainment areas:</u></p> <p>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.</p> <p>An area designated as sustainment by the EQC would remain a federal attainment area. DEQ, working closely with the local community, would develop and implement a sustainment plan to improve air quality and prevent a nonattainment designation. 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 (see section 6 below).</p>

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	<p><u>Reattainment areas:</u> DEQ would propose a state reattainment designation for a federal nonattainment area with an approved attainment plan in which air quality is reliably meeting 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.</p> <p>An area designated as reattainment by EQC would remain a federal nonattainment area, and all elements of its attainment plan would continue to apply until EPA approves a 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 as a primary cause of air quality violations in the attainment plan (see section 6 below).</p>
5. Identify Lakeview as a state sustainment area while retaining its federal attainment designation	
What problem is DEQ trying to solve?	<p>The air quality in Lakeview is currently violating the PM_{2.5} ambient air quality standard although the area has not yet been designated by EPA as nonattainment. This is because DEQ did not have the required three years of monitoring data to determine if the area was violating the federal standards at the time designations were last required. The community is voluntarily participating in EPA's "PM Advance" program to develop an air quality improvement and prevention plan. Local officials hope to quickly bring the area 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 is assisting the community with technical analysis and administrative support for the PM Advance planning process.</p> <p>However, 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>
How would the proposed rule solve the problem?	<p>The proposed rules would designate Lakeview as a state sustainment area, which is a new area classification proposed to be created as part of this rulemaking (see section 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 and avoid a federal nonattainment designation.</p> <p>The PM Advance plan currently being developed outside of the rulemaking process will address all PM_{2.5} emission sources, including residential wood stoves and open burning. DEQ believes that the proposed rules for Sustainment Areas could be</p>

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	<p>incorporated into the PM Advance Plan to specifically address stationary sources within the Lakeview area. 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 (see section 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.</p> <p>DEQ's technical analysis to identify the boundary and primary sources of air pollution in the proposed sustainment area are included in Attachment A.</p>
6. Change the pre-construction permitting program (New Source Review)	
<p>What problem is DEQ trying to solve?</p>	<p>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 Prevention of Significant Deterioration portion of the New Source Review program is designed to prevent degradation of air quality in areas that meet federal air quality standards. The nonattainment New Source Review program is designed to improve the air quality in designated nonattainment areas that violate air quality standards.</p> <p>One problem with the current NSR program is that the 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 NSR program and a minor NSR program. The requirements for the major NSR program are very prescriptive, but states have more flexibility in designing the minor NSR program so long as the state demonstrates that it will protect air quality. In Oregon, the requirements for minor and major NSR are the same, which limits DEQ's ability to use the minor NSR program in the most effective way to protect air quality while enabling economic development.</p> <p>A second problem with the current NSR program has to do with the test DEQ uses to determine if a major new or modified facility will improve air quality in or near a nonattainment or maintenance area. These businesses are required to reduce emissions from other existing businesses, and demonstrate that the emission increases and reductions together result in a net air quality benefit. The current criteria for determining if the project results in a net air quality benefit are impossible to meet unless the increasing and offsetting businesses are co-located. This prevents other potentially more beneficial local air pollution reduction projects from occurring and creates an unnecessary construction ban.</p> <p>A third problem with the current NSR program is that there are no criteria for approving or denying extensions of a construction permit if construction is delayed. In some cases, construction may be delayed for good cause, but air quality conditions and requirements may have changed since the original construction permit was approved.</p>

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How would the proposed rule solve the problem?	<p>The proposed rules would distinguish requirements for new and proposed facilities that are above the federal major source threshold from requirements for those facilities below the federal major source threshold. To do this, the amendments would change the definition of a major source to match EPA's definition and establish a minor NSR program for smaller businesses called 'State New Source Review.' The NSR requirements for smaller businesses would be tailored to the air quality needs of an area in ways that cannot be applied to larger businesses because of EPA requirements.</p> <p>The proposal would update major NSR requirements and establish minor NSR requirements for attainment, nonattainment and maintenance areas. The proposal would also establish NSR requirements for the two new proposed area classifications, sustainment and reattainment.</p> <p>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 to demonstrate that the proposal together with offsetting emission reductions would create a net air quality benefit. The current process, based solely on air quality modeling, would be replaced by a system that requires emission offsets to be greater than emission increases together with a simplified modeling demonstration. The ratio of emission reductions to emission increases would depend on the area classification and whether the proposed emission increase is above or below the federal major source threshold.</p> <p>The proposed rules would provide incentives for new or modified businesses to help address ambient air quality problems. The incentive would reduce the emission offset ratio if the reductions were obtained from priority sources – the sources that primarily cause the air quality problem in the local area.</p> <p>Finally, the proposal would clarify how a business may get an extension for their New Source Review permit if construction is delayed. Current rules allow extensions if there is simply good cause. The rules do not specify the criteria for approving extensions or the number of extensions allowed. Potential projects delayed without additional review could tie up their designated portion of the airshed indefinitely, cause significant impacts on air quality and result in the installation of less effective control technology. The proposed rules provide for two 18-month extensions, as well as procedures for requesting and approving extensions.</p>
7. Provide more flexibility for public hearings and meetings	
What problem is DEQ trying to solve?	<p>The existing rules are very prescriptive regarding how public hearings and meetings must be held. The rules were first adopted 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 shows up.</p>

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How would the proposed rule solve the problem?	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. DEQ is committed to public engagement and is looking for new and innovative ways to reach people and hold hearings, including teleconferences, video conferences and webinars.
8. Reestablish Heat Smart exemption for small commercial solid fuel boilers that are regulated by the permitting program	
What problem is DEQ trying to solve?	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.
How would the proposed rule solve the problem?	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	
What problem is DEQ trying to solve?	<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 data on 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>
How would the proposed rule solve the problem?	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.

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.

Rules affected, authorities, supporting documents

Adopt OAR:

340-200-0035, 340-202-0225, 340-204-0300, 340-204-0310, 340-204-0320, 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, 340-224-0540, 340-224-0550, 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, 340-204-0060, 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, 340-218-0250, 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, 340-234-0200, 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, 340-244-0252, 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

Renumber OAR:

Current OAR 340-222-0070 renumbered to 340-222-0035(5) and (6)

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 340-225-0090 amended and renumbered to 340-224-0060, 340-224-0510, 340-224-0520, 340-224-0540, 340-224-0550;
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, 340-228-0400, 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 Ignition Internal Combustion Engines	http://www.gpo.gov/fdsys/pkg/CFR-2011-title40-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	http://www.gpo.gov/fdsys/granule/CFR-2012-title40-

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.

Statement of fiscal and economic impact

ORS 183.335 (2)(b)(E)

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:

- Streamlining, reorganizing and updating 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 community outreach
- Making minor changes to the 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 reorganization and added clarity.

Units of local governments: Proposed rules in this category would not have fiscal or economic impacts on local governments.

Public: This category does not affect the stringency of the rules; therefore, DEQ does not anticipate any direct 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 additional nonattainment area designations in Oregon. 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. 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 (6 federal government) agencies currently subject to air permitting regulations could experience the negative impacts described in the general impacts section above. 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.

Public: DEQ does not anticipate the proposed rules would 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.

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 cost of the permit would be approximately \$1,600. 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 (6 federal government) agencies currently subject to air permitting regulations could experience the negative impacts described in the general impacts section above. DEQ workload would increase 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.

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. 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. 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 air quality violations in the attainment plan.

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 re attainment areas.

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. 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.

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 (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 would probably never trigger New Source Review. 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 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 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/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. 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/mile and accommodation rates are approximately \$77 to \$113 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 or decrease depending on implementation.

Units of local governments: The proposed rules could decrease travel and associated staff expenses for local governments.

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.

8. Reestablish 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. 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.

Public: DEQ does not anticipate any direct, negative fiscal or economic impacts from the proposed rules on the public.

9. Remove annual reporting requirement for small gasoline dispensing facilities

General Impacts: 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.

State agencies: DEQ anticipates the 26 state (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 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 impact 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.

2. Update particulate matter emission standards

DEQ identified 11 businesses (3 small businesses) that may not be able to comply with 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.

Wood-fired Boilers

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 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.

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 multiclones 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: Emissions from wood-fired 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 at an additional cost of \$1,000 to \$2,000. Most wood-fired boilers already have gauges to measure pressure drop.

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.

Vendors state that compliance with a 0.15 gr/dscf particulate matter standard is possible with multiclones, especially 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 regular multiclones and installation is approximately \$60,000 to \$100,000. Installed ceramic high efficiency multiple cyclones 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, but is expected to be approximately \$5,000.

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 \$1,000 per year. Equipment and installation of a recently installed COMS on a wood-fired boiler cost \$27,800, which does not include the cost of a computer.

While not required by the proposed rules, some businesses may voluntarily elect to install electrostatic precipitators, which can easily meet 0.15 gr/dscf. The advantage of an ESP is that it can control emissions over a wider range of operating conditions that may vary significantly due to steam demand and fuel quality. Information from vendors indicates a new ESP costs approximately \$850,000 to \$2.2 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. One business was looking at a used wood-fired package boiler with an ESP for approximately \$500,000.

Asphalt Plants: The three asphalt plants that may not meet the lower standards are older plants that utilize wet scrubber controls. 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 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 “re attainment” - 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.

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.

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 NSR program (State New Source Review) would have a positive fiscal and economic impact on businesses. For 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 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 NSR 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.

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 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. | <p>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.</p> <p>There would be more recordkeeping and reporting for emergency generators and small natural gas or oil-fired equipment.</p> |
| 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, 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 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. |

Documents relied on for fiscal and economic impact

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. 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.

Federal relationship

<http://www.leg.state.or.us/ors/468a.html>

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

Relationship to federal requirements

1. Clarify and update air quality regulations

DEQ determined this rule proposal is "in addition to federal requirements" to address administrative issues. DEQ's rules are different from EPA rules so clarifying and updating these rules may be considered to be "in addition to federal requirements" because EPA does not have identical rules.

What alternatives did DEQ consider, if any?

DEQ considered leaving the rules as they are but wanted to clarify as much as possible and update all rules. DEQ did not pursue this alternative because there would still be confusion, possible misinterpretations and errors in the rules.

2. Update particulate matter standards

The proposed rules 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 Standards have opacity and particulate matter limits for the specific industry being regulated but nothing that applies across the board.

DEQ identified two New Source Performance Standards that have opacity limits for fugitive emissions. The New Source Performance Standard for Metallic Mineral Processing Plants (Subpart LL) requires fugitive emissions to meet 10 percent opacity using Method 9 for compliance. The New Source Performance Standards for 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. EPA Method 9 is used when determining compliance with the fugitive emissions standard. Even though the proposed rule changes for fugitive emission sources are different than the two applicable federal requirements, they are just as, if not more stringent than the two New Source Performance Standards because DEQ is requiring any fugitive emissions that leave the property to be abated.

The proposed changes to the current statewide visible emission standards that apply to non-fugitive sources would put DEQ’s standards on the same basis as 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 (0.1 gr/dscf to 0.10 gr/dscf) would also align DEQ rules with applicable federal requirements and policies.

What alternatives did DEQ consider, if any?

DEQ considered leaving the particulate matter standards the same but felt that protecting air quality and the potential for economic development is more important. Most businesses that were constructed before 1970 have already updated their facilities and now meet the lower particulate matter standards. This proposed rule change levels the playing field for pre-1970 and post-1970 businesses.

DEQ considered leaving the averaging time for opacity standards at the aggregate 3 minutes in 60 minutes and the 30 seconds in 60 minutes but without a reference test method for compliance, enforceability of the standards is questionable.

DEQ considered leaving the opacity limits for fugitive emission sources as is but determined that this approach would perpetuate difficulty in implementation of the standard. DEQ did not pursue this alternative because 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 “reattainment” - to help areas avoid and more quickly end a federal nonattainment designation

The proposed rules are “in addition to federal requirements” and protect public health and the environment while addressing economic concerns. EPA only designates nonattainment areas. The proposed rules would designate other areas, sustainment and reattainment, would improve Oregon’s New Source Review program 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 because the possibility of EPA approval was unknown at the time. DEQ did not pursue this alternative because meetings with 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” and protect public health and the environment while addressing economic concerns. EPA only designates nonattainment areas. The proposed rules would designate other areas, sustainment and reattainment, would improve Oregon’s New Source Review program 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 because the desire of the local community was unknown at the time. DEQ did not pursue this alternative because local city 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” and protect public health and the environment while addressing economic concerns. The proposed rules modify Oregon’s existing permitting rules which are different than federal rules. Oregon’s permitting program has been structured in a different way than the federal program since it originated in 1982, but is considered equivalent by EPA. The proposed rulemaking also aligns some aspects of Oregon’s program with EPA’s federal program.

DEQ proposes changing the definition of a major source to match EPA’s definition. There would be 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 but still protect the ambient air quality.

The proposed rules 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 also encouraging economic development when air quality has been improved in a nonattainment area.

DEQ's program, although substantially different from EPA's regulations, provides a workable program that is equivalent to EPA's and accomplishes 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 but determined the proposed changes would improve air quality and provide flexibility for smaller businesses. 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 leaving the requirements for public hearings and meetings as is but the economic benefits and improved effectiveness of outreach using recent technology supported the proposed change. DEQ did not pursue this alternative because technology would only improve, making access to public hearings and meetings easier and cheaper for the public.

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

Clarifying and updating these rules may be considered to be "in addition to federal requirements" because EPA does not have identical rules.

What alternatives did DEQ consider, if any?

DEQ did not consider any other alternatives because this rulemaking is to fix 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

The proposed rules remove the annual reporting requirement for gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline. This change would be consistent with the federal requirements because 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 keeping the annual reporting requirement for gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline. DEQ rejected this alternative because it determined that 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, and may do so, 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.”

ORS 197.180, OAR 660-030

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

The air quality permit programs require that a new business provide a Land Use Compatibility Statement (LUCS) from local government when applying for a permit. This assures that the business is an approved use for the property where it is located. Existing permittees have provided a LUCS, which are on file with DEQ. No change in the land use procedures in the air quality permitting program is proposed.

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 throughout the state (Portland, Pendleton, Eugene and Medford) to discuss and allow for preliminary input on the rules. DEQ sent an announcement of the meetings to all permitted facilities and people who expressed interest in air quality rulemakings. DEQ sent the announcement 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 annual DEQ Rulemaking Plan review and monthly status report. DEQ shared information about this rulemaking with the EQC through a Director's dialog at the December 11, 2013 EQC meeting and an information item on the _____, 2014 EQC agenda.

Public notice

The _____ 2014 Oregon Bulletin will publish the Notice of Proposed Rulemaking with Hearing for this rulemaking. DEQ also:

- Posted notice on DEQ's webpage <http://www.oregon.gov/deq/RulesandRegulations/Pages/2013/aqperm.aspx> on December 17, 2013.
- E-mailed notice on _____ 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:
 - o Michael Dembrow, Chair, Senate Environment and Natural Resources
 - o Representative Jules Bailey, Chair, House Energy and Environment
- Mailed the notice by U.S. Postal Service to 449 stakeholders on _____, including representatives of facilities holding Title V and Air Contaminant Discharge Permits.
- Legal ad in the Oregonian and Daily Journal of Commerce on _____
- Sent notice to EPA on _____.

Public hearings

DEQ plans to hold one statewide public hearing that will be accessible throughout the state from the regional offices. The table below includes information about how to participate in the public hearing.

Before taking public comment and according to Oregon Administrative Rule 137-001-0030, the staff presenter will summarize the content of the notice given under Oregon Revised Statute 183.335 and respond to any questions about the rulemaking.

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

	Hearing 1	Hearing 1	Hearing 1	Hearing 1
Date	XX-XXX-14	XX-XXX-14	XX-XXX-14	XX-XXX-14
Time	6:00 p.m.	6:00 p.m.	6:00 p.m.	6:00 p.m.
Address line 1	811 SW 6th Ave.	750 Front St., Suite	475 NE Bellevue Dr.,	221 Stewart Ave.,
City	Portland	120	Suite 110	Suite 201
Presiding officer	George Davis, Senior Permit Writer, Northwest Region, Portland	Gary Andes, Senior Permit Writer, Western Region, Salem	Mark Fisher, Senior Permit Writer, Eastern Region, Bend	Tom Peterson, Senior Permit Writer, Western Region, Medford
Staff presenter	Jill Inahara, Program Operations			
Conference number	(888) 204-5984	(888) 204-5984	(888) 204-5984	(888) 204-5984
Participant code	257801	257801	257801	257801

Close of public comment period

The comment period will close on _____, 2014 at 5:00 p.m.