

Oregon Department of Environmental Quality

**October 1, 2013**

Notice of Proposed Rulemaking

**Air Quality Rule Changes and Updates**

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| **Overview** |

Before formal review:

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Short summary

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| **Clarify and update existing rules**  DEQ is proposing to move procedural requirements to the correct division, clarify rules where necessary, repeal rules that are no longer needed, update rules that are outdated, and synchronize definitions throughout all the divisions. |
| **Update particulate matter standards**  DEQ is proposing to lower statewide particulate matter standards for units that were built before 1970 in order to avoid exceedance of the fine particulate matter ambient air quality standard. |
| **Change permitting requirements for small sources**  DEQ is proposing to permit larger emergency generators because of new EPA rules and small boilers if their aggregate emissions are above permitting thresholds. These types of units are currently exempt from permitting requirements. |
| **Change the pre-construction permitting program (New Source Review)**  DEQ is proposing the following change to the New Source Review program:   * align definition of major source with EPA’s definition * establish different requirements for small and large sources, * define two new area designations, sustainment and reattainment, to prevent areas from exceeding the ambient air quality standards and to transition back to less stringent requirements if the air quality has improved * provide more flexibility for smaller sources to encourage development while still protecting air quality * provide incentives for reducing emissions from the sources that are causing the local air quality problem * redefine how a business that builds or expands can show that they are providing a net air quality benefit in the area * clarify how a business can get an extension for a New Source Review permit if construction is delayed for good cause. |
| **Designate Lakeview as sustainment area**  DEQ is proposing to designate Lakeview as a sustainment area in order to improve air quality in the area so Lakeview will not become a nonattainment area, an area designation by EPA that means the ambient air quality standard is being exceeded. |
| **Provide DEQ more flexibility for public hearings and meetings**  DEQ is proposing to change the rules for how public hearings and meetings are held. The rules for holding public hearings and meetings are very prescriptive. Recent technology provides DEQ many options on how public hearings and meetings are held. |
| **HeatSmart** |
| **Clean diesel grant and loan rules**  SB 249A was adopted unanimously by the 2013 Oregon Legislature and signed into law on April 18, 2013. SB 249A authorizes DEQ to administer federal grants received for clean diesel projects to be completed in accordance with federal grant guidelines rather than more limited state guidelines. While the law was enacted with an emergency clause making it effective upon signing, the Attorney General has determined that adoption of a rule implementing the statutory provisions is also necessary. |
| **Annual reporting requirement for small gasoline dispensing facilities**  The proposed rules would remove the annual reporting requirement for small gasoline dispensing facilities. |

Brief history

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| **Clarify and update existing rules**   * There are procedures in definitions like major modification, actual emissions and netting basis that need to be moved. * Some of our rules are missing important details so we worked on clarifying them. These elements of our program have created problems in the past. For example, we are clarifying how emissions are divided when a business splits into two or more businesses * DEQ’s Source Sampling Manual and Continuous Monitoring Manual have not been updated since 1992. * Unfortunately many businesses have shut down in Oregon so DEQ is proposing to repeal those industry specific rules. If one of those businesses wants to locate in Oregon, they would have to comply with current federal rules which are more stringent than our existing state rules. DEQ is proposing to repeal the following rules:   + Neutral Sulfite Semi-Chemical Pulp Mills   + Sulfite Pulp Mills   + Primary Aluminum Standards   + Laterite Ore Production of Ferronickel   + Charcoal Producing Plants * DEQ is also proposing to repeal rules for which EPA has adopted standards.   + EPA adopted national rules that apply to manufacturers of consumer spray paint rules so DEQ is proposing to repeal the state rules. These rules were part of plan to reduce ozone from consumer products.   + DEQ worked with the western states on a SO2 trading program but dropped out because it wasn’t cost effective. There are now specific rules but PGE is not involved in trading so we don’t need the state rules.   + EPA’s rules for Commercial/Industrial Solid Waste Incineration require forced-air pit or air curtain incinerators to have Title V permits. Therefore, these emissions units can no longer be allowed under the open burning rules. * Many of the divisions regulating air quality have a rule containing definitions applicable to that division. Throughout the divisions there are multiple definitions of the same term. DEQ has synchronized the definitions and moved them to division 200, General Air Pollution Procedures and Definitions if they apply to more than division. Definitions that apply to only one division will remain in that division. |
| **Update particulate matter standards**  DEQ relies on several types of standards when issuing air quality permits. One standard is referred to as a visual standard, which relies on the density – or opacity – of a plume. A second standard for particulate matter – dust, dirt, chemicals, etc. – involves more quantifiable emission limits. The rules include different standards for pre and post 1970 units:   * Pre-1970 unit: 40% opacity and 0.2 grain/dry standard cubic foot (gr/dscf) * Post 1970 unit: 20% opacity and 0.1 gr/dscf   The proposed rulemaking changes will affect both the statewide visual and particulate matter standards for units built before June 1970 by requiring these industries to meet higher air quality standards that the post 1970 units have to meet.  These statewide particulate matter standards were adopted in early 1970’s as part of initial State Implementation Plan (SIP). At that time, there was only an ambient air quality standard for total particulate, not for PM10 or PM2.5. With the adoption of the PM2.5 ambient air quality standard in 2011, there have been two areas designated in Oregon that exceed the standard. Work on the Klamath Falls attainment plan showed impacts from a single source could be up to 75% of standard. That puts us in danger of violating the ambient air quality standard. This is a huge risk for public health and economic development. If the majority of the airshed is taken up already from a single source, new sources aren’t able to come into the area. This change allows economic expansion in the airshed. Therefore, DEQ is proposing to reduce both the particulate matter standard and the opacity standard to help keep areas from exceeding the PM2.5 ambient air quality standard.    In addition to lowering the particulate matter standard to 0.1 gr/dscf, the standard is inconsistent with current EPA policy for significant figures. EPA considers all standards to have two significant figures and conducts enforcement as such. Therefore, DEQ is proposing to add a zero to the standard: 0.10 gr/dscf. Businesses will have until January 1, 2019 to comply with the lower particulate matter standard and until January 1, 2015 to comply with the lower opacity standard.  When DEQ first adopted the opacity standard, borrowed from California, the averaging period for the standard was an aggregate of three minutes in a 60 minute period. In order to show compliance with this standard, people use a modified EPA Method 9 to read opacity. EPA Method 9 requires readings based on a 6-minute block average. DEQ never developed a reference method for the 3-minute aggregate limit. DEQ is proposing to change all opacity standards (both the statewide and industry specific) to 6-minute block average, which is consistent with other states in the region and EPA opacity standards. There is no change in stringency in using EPA Method 9 to determine compliance. DEQ also proposes to repeal the Portland 4-county 20% opacity standard which is an aggregate of 30 seconds in a 60-minute period for non-fuel burning equipment for the same reason.  These changes in the statewide particulate matter standards are proactive measures for helping to prevent violations of current PM2.5 standards and potentially more stringent standards in the future. DEQ adopted similar, more stringent rules when areas exceeded the PM10 ambient air quality standard. By adopting more stringent rules now before areas exceed ambient air quality standards and become nonattainment areas, DEQ hopes to avoid the severe restrictions that would be required for businesses that want to build or expand in a nonattainment area.  DEQ is also proposing changes to the opacity rules for controlling fugitive emissions. DEQ is exempting fugitive emissions from the opacity limits because showing compliance with the limits for fugitive sources is very difficult using EPA Method 9 since there is no stack to observe. Instead, DEQ is requiring that owners/operators prevent particulate matter from being airborne and when fugitive emissions leave the property boundary, they must be abated. EPA Method 22 is applicable for the determination of whether visible emissions occur and the frequency from stationary sources. This method does not require that the opacity of emissions be determined. |
| **Change permitting requirements for small sources**  When the Title V permitting program was established in the mid 1990’s, DEQ developed a list of categorically insignificant activities because all emissions had to be accounted for in the Title V permits. The list includes examples like:   * Janitorial activities * Groundskeeping activities including * Emergency generators   Businesses would indicate whether they had the activity onsite and there were no other requirements. EPA has since adopted new standards for emergency generators that may require a permit, incorporation into an existing permit or construction approval for new units.  DEQ also has small boilers on the list of categorically insignificant activities. One business has about 20 small boilers and their aggregate emissions are significant so permits for these boilers will be required. They will also need construction approval for new units. |
| **Change the pre-construction permitting program (New Source Review)**  New Source Review is a nationwide regulatory program that ensures new or modified facilities install the latest control technologies and do not violate ambient air quality standards. The New Source Review program is designed to prevent areas from becoming new nonattainment areas and also improve the air quality in nonattainment areas to get back into attainment.  There are many areas of the state that are close to or are exceeding the PM2.5 ambient air quality standard. The new standards were adopted in 2007 and are much lower than the existing PM10 standards. The air quality problems in these areas are mainly due to areas sources such as woodstoves, not industrial sources. The current rule structure does not adequately address these PM2.5 ambient air quality problems and prohibits development because the rules include modeling requirements that create an unnecessary construction ban in areas where air quality is over the ambient air quality standard but hasn’t been redesignated as a nonattainment area.  To solve these problems, DEQ is establishing two new transitional areas: sustainment and reattainment areas. These will be designated by the Environmental Quality Commission, not EPA, which can take years. Sustainment areas are designed to prevent areas from becoming nonattainment areas. Reattainment areas help transition an area back to attainment more quickly before the EPA redesignation.  DEQ is proposing to change the definition of a major source to match EPA’s definition. There will be different requirements for small and large businesses. The program for smaller businesses will be called State New Source Review. This change, along with the designation of sustainment and reattainment areas will allow more flexibility in permitting smaller sources.  DEQ will provide incentives for new or modified sources that will help address ambient air quality problems by giving the new or modified source more credit for emission reductions from the priority sources – the sources that are causing the problem in the local area. If the new or modified business does not use emission reductions from priority sources, DEQ is proposing to raise the current offset ratios. All of these changes will allow construction that was previously prohibited but will still be protective of air quality.  Another aspect of the New Source Review program that DEQ is proposing to change is Net Air Quality Benefit. When a business triggers DEQ’s New Source Review program, one thing they have to do is show that the change will provide a net air quality benefit in the area they are building or expanding. Right now, the computer modeling requirements for showing that benefit are impossible to meet unless the increasing and reducing businesses are co-located. The lower PM2.5 standard has revealed this problem. The proposed changes to Net Air Quality Benefit will make sure that air quality is protected but the near impossibility of meeting the modeling criteria will be eliminated.  If construction is delayed for good cause, DEQ is proposing rule changes that clarify how a business can get an extension for their New Source Review permit. Current rules allow extensions provided there is a “demonstrated need” but do not specify the criteria for approving the extension and how many extensions are possible. If projects are delayed without additional review, there is the potential for proposed projects to tie up their portion of the airshed indefinitely, cause significant impacts on air quality, and not install the most current control technology. DEQ’s proposal adds provisions for two 18-month extensions, criteria for approving extensions, procedures for requesting extensions and procedures for approving extensions. |
| **Designate Lakeview as sustainment area**  The air quality in Lakeview currently exceeds the PM2.5 ambient air quality standard even though Lakeview is not designated a nonattainment area by EPA. |
| **Provide DEQ more flexibility for public hearings and meetings**  Current rules require DEQ to hold informational meetings on the most complex permit actions and public hearings whenever one is requested. The requirements are very prescriptive, requiring the hearing be at “a reasonable place and time.” This language does not allow DEQ to use technology such as the internet to hold “virtual” meetings. This proposal will make it easier and cheaper for people to participate. |
| **HeatSmart** |
| **Clean diesel grant and loan rules**  In 2007 the Oregon Legislature outlined the elements of a grant, loan and tax credit supported program to reduce environmental and public health risks from diesel engine pollution. There are a wide variety of strategies to reduce the pollution impact from diesel engines, including installing advanced exhaust controls, repowering engines to more stringent emission standards, increasing efficiency in operations involving diesel engines, reducing unnecessary idling, switching to lower emitting alternative fuels, among other actions. Some of these actions have an inherent economic advantage and represents an ineffective use of public financial resources to subsidize. Other actions, e.g., alternative fuels, have levels of public financial support from other programs. The original limited authorization for clean diesel grants, loans and tax credits managed by DEQ reflected a strategic decision to support a limited number of cost effective strategies not otherwise financed through private returns on investment or other public assistance.  State funds for clean diesel work have not been appropriated since the 2007-09 biennium and the tax credit program was shut down in 2012. This has led to a constrained grant program that is not in alignment with the range of allowable activities under available funding. The primary remaining funding stream is managed by EPA through the federal Diesel Emission Reduction Act. The Act includes a more expansive list of allowable project activities than were authorized under Oregon statutory authority. However DEQ is still constrained in applying for and managing federal grants by the statutory authority. As an example, there was no interest in pursuing projects within the original statutory scope for the FY 2012 cycle despite broad outreach and project recruitment efforts. Consequently no federal funds were awarded for Oregon projects in that year. Aligning DEQ’s clean diesel project authority with federal grant guidelines allows for ongoing and developing interest in clean diesel activities to be supported, e.g., vehicle and equipment replacement as compared to exhaust retrofitting. |
| **Annual reporting requirement for small gasoline dispensing facilities**  A gasoline dispensing facility with a monthly throughput of less than 10,000 gallons of gasoline is currently required to meet work practice standards, have a submerged fill tube installed on their tank(s), submit a one-time initial notification and notification of compliance status, and submit annual reports of throughput; they are not required to have an air quality permit. DEQ has determined that the annual reporting requirement for these small gasoline dispensing facilities is unnecessary. |

Regulated parties

All permitted sources

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| **Statement of need** |

| **Proposed Rule or Topic** | **Discussion** |
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| 1. Rule Cleanup and Update |  |
| What problem is DEQ trying to solve? | Air quality rules:   * are not well organized * are missing important details * are outdated * are not aligned with EPA rules and * contain multiple definitions for the same term.   There is an ongoing need to clarify and make corrections to existing rules when confusing language or errors are discovered. DEQ also wants to repeal rules that are no longer needed. |
| How would the proposed rule solve the problem? | The proposal solves this problem by moving procedural requirements from the definitions to the correct division, clarifying rules where necessary, repealing rules that are no longer needed, updating rules that are outdated, and synchronizing definitions throughout all the divisions.  To clarify rules, DEQ is:   * including compliance methods with all standards to make sure businesses know what to do to comply with the standards * adding definitions for undefined terms such as control efficiency, internal combustion source, and removal efficiency * moving the tables containing numbers into the text whenever possible to make them easier to find, such as significant emission rates, de minimis levels, generic Plant Site Emission Limits, significant impact levels and PSD increments   The following rules are no longer needed because there are more stringent federal rules or that type of business no longer exists in Oregon. If that type of business wanted to build in Oregon, they would be permitted under federal rules, which are more stringent than the state rules being repealed.   * Neutral Sulfite Semi-Chemical (NSSC) Pulp Mills * Sulfite Pulp Mills * Primary Aluminum Standards * Laterite Ore Production of Ferronickel * Charcoal Producing Plants * Consumer Spray Paint * Regional Haze rules for Western Backstop SO2 Trading Program   DEQ’s Source Sampling Manual and Continuous Monitoring Manual were last adopted in 1992. EPA methods have changed and PM2.5 standards have since been adopted so the manuals need to be updated. |
| How will DEQ know the problem has been solved? | Upon adoption by the EQC, DEQ will submit the rules to EPA to update Oregon’s State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and State Implementation Plan revision. |
| 1. Update particulate matter standards |  |
| What problem is DEQ trying to solve? | There are areas in the state where air quality is close to or over the PM2.5 ambient air quality standard. Work on the Klamath Falls attainment plan showed that impacts from a single business could be up to 75% of standard. That puts the area in danger of violating the ambient air quality standard. This is a big risk for public health and economic development. If the majority of the airshed is taken up already from a single business, new businesses aren’t able to come into the area. These proposed changes would allow economic expansion in the airshed. Therefore, DEQ is proposing to reduce both the particulate matter standard and the opacity standard to help keep areas from exceeding the PM2.5 ambient air quality standard.  DEQ is proposing to revise the current statewide visible emission standards to apply on a six-minute average, which will put DEQ’s standards on the same basis as the U.S. EPA’s visible emissions standards. DEQ has never developed a reference method for determining compliance with the 3-minute aggregate in a 60-minute period standards. People were required to use a modified EPA Method 9 to determine compliance. Changing to a six-minute average visible emission standard will clarify compliance requirements  When DEQ first adopted the opacity standard, borrowed from California, the averaging period for the standard was an aggregate of three minutes in a 60 minute period. In order to show compliance with this standard, people use a modified EPA Method 9 to read opacity. EPA Method 9 requires readings based on a 6-minute block average. DEQ never developed a reference method for the 3-minute aggregate limit.  On the face of it, the visible emissions standard in OAR 340-208-0600 (may not equal 20 percent opacity or greater for a period of or periods totaling more than 30 seconds in any one hour) is more stringent than the current statewide standard. However, this rule has limited applicability as described above. More importantly, emissions standards are only enforceable if there is a defined method for determining compliance with the standard. In the case of the proposed statewide standards, EPA’s Method 9 is the defined method for determining compliance. Using EPA Method 9, visible emissions readings are taken every 15 seconds, and 24 consecutive readings are averaged to determine compliance with the 6-minute standard. However, DEQ does not have a defined method for determining compliance with the 30-second standard in OAR 340-208-0600, and EPA Method 9 does not lend itself to this task because readings are taken every 15 seconds.  The lack of a defined compliance determination method makes the 30-second standard in OAR 340-208-0600 unenforceable as a practical matter. DEQ could devise and propose a compliance method to make this rule enforceable, but DEQ does not believe the level of effort required to do this is justified for a rule that has such limited applicability. DEQ also believes that the statewide standard will be sufficiently protective.  DEQ proposes repeal of this rule because it is not practically enforceable and because the effort required to develop a method to make it enforceable is not justified. Repeal of this rule will have no effect.  DEQ is also trying to solve the problem of trying to read opacity from fugitive emission sources. The compliance for opacity limits is EPA Method 9, which is designed to read opacity from a well-defined stack. It is very difficult to use EPA Method 9 on fugitive emissions, which are usually dispersed over a larger area. |
| How would the proposed rule solve the problem? | The proposed rule changes will affect both the statewide visual and particulate matter standards for units built before June 1970 by requiring these industries to meet the same higher air quality standards that the post 1970 units have to meet.  DEQ is also proposing repeal of the 30-second opacity limit in OAR 340-208-0600. This rule is specific to Clackamas, Columbia, Multnomah, and Washington Counties.  fugitives |
| How will DEQ know the problem has been solved? | Upon adoption by the EQC, DEQ will submit the rules to EPA to update Oregon’s State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and State Implementation Plan revision. |
| 1. Permitting small sources |  |
| What problem is DEQ trying to solve? | EPA has adopted National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines. These rules also include requirements for emergency generators, which DEQ previously thought to have insignificant emissions. DEQ also thought that emissions from small gas and oil boilers were insignificant. If a business has many of these small boilers, their emissions in aggregate can be significant so DEQ is proposing changes to the rules regarding emissions from these two types of sources.  Usually these activities will be added to an existing permit. In some cases, a business will need a permit for these activities alone. If the aggregate emissions are insignificant, the owner/operator may only need to notify DEQ of installation of new units. |
| How would the proposed rule solve the problem? | DEQ is proposing changes to the rules that would remove small boilers and emergency generators from the list of insignificant sources if those units are above certain thresholds and if their emissions in the aggregate are greater than de minimis levels. |
| How will DEQ know the problem has been solved? | Upon adoption by the EQC, DEQ will submit the rules to EPA to update Oregon’s State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and State Implementation Plan revision. |
| 1. New Source Review |  |
| What problem is DEQ trying to solve? | DEQ is proposing 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 changes will also clarify permitting requirements, provide more opportunities for businesses to obtain offsets and make it possible to demonstrate a new air quality benefit for a new or modified business. |
| How would the proposed rule solve the problem? | XXXXX |
| How will DEQ know the problem has been solved? | Upon adoption by the EQC, DEQ will submit the rules to EPA to update Oregon’s State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and State Implementation Plan revision. |
| 1. Net Air Quality Benefit | |
| What problem is DEQ trying to solve? |  |
| How would the proposed rule solve the problem? |  |
| How will DEQ know the problem has been solved? | Upon adoption by the EQC, DEQ will submit the rules to EPA to update Oregon’s State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and State Implementation Plan revision. |
| 1. Provide DEQ more flexibility for public hearings and meetings | |
| What problem is DEQ trying to solve? |  |
| How would the proposed rule solve the problem? |  |
| How will DEQ know the problem has been solved? | Upon adoption by the EQC, DEQ will submit the rules to EPA to update Oregon’s State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and State Implementation Plan revision. |
| 1. HeatSmart | |
| What problem is DEQ trying to solve? |  |
| How would the proposed rule solve the problem? |  |
| How will DEQ know the problem has been solved? | Upon adoption by the EQC, DEQ will submit the rules to EPA to update Oregon’s State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and State Implementation Plan revision. |
| 1. Clean diesel grant and loan rules | |
| What problem is DEQ trying to solve? | DEQ determined that failure to amend the proposed rule would delay implementation of projects to reduce the harmful emission from diesel engines through vehicle and equipment replacement projects both proposed and in hand. Timely movement on grant administration reinforces the Department’s reputation as effective in taking meaningful action towards protection of public health and the environment. Failure to adopt the rule dissipates momentum generated by the unilateral support by the Oregon Legislature as well as a diverse group of industry, public health, public interest and environmental advocacy groups that worked for the passage of SB 249. Failure to adopt the rule delays timely implementation of a project intended to showcase climate change and public health benefits that can arise from vehicle replacement and exhaust retrofitting in highway maintenance vehicles, that in turn, will be used to recruit other interested parties to take comparable actions. Delays in project implementation contribute to issues in completing projects in a timely manner, which reflects unfavorably upon the Department’s ability to secure future grant awards from EPA. Failure to adopt the proposed amendment will undermine the Oregon Clean Diesel Initiative’s effort to support program goals to reduce the adverse impacts from toxic air pollutants and mitigate climate change. |
| How would the proposed rule solve the problem? | The proposed rule will allow projects to proceed in a timely manner with expected air quality improvements to be achieved sooner rather than later. |
| How will DEQ know the problem has been solved? | Upon adoption by the EQC, DEQ will submit the rules to EPA to update Oregon’s State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and State Implementation Plan revision. |
| 1. Annual reporting requirement for small gasoline dispensing facilities | |
| What problem is DEQ trying to solve? | A gasoline dispensing facility with a monthly throughput of less than 10,000 gallons of gasoline is currently required to meet work practice standards, have a submerged fill tube installed on their tank(s), submit a one-time initial notification and notification of compliance status, and submit annual reports of throughput; they are not required to have an air quality permit. DEQ has determined that the annual reporting requirement for these small gasoline dispensing facilities is unnecessary. |
| How would the proposed rule solve the problem? | The proposal addresses this by removing the annual reporting requirement for facilities with monthly throughput less than 10,000 gallons. 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. |
| How will DEQ know the problem has been solved? | Upon adoption by the EQC, DEQ will submit the rules to EPA to update Oregon’s State Implementation Plan. DEQ will know the goals of this rulemaking have been addressed when EPA reviews and approves the delegation request and State Implementation Plan revision. |

Request for other options

During the public comment period, DEQ requested 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.

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| Rules affected, authorities, supporting documents |

Lead divisionProgram or activity

Chapter 340 action[🞂](http://deq05/intranet/working/rulemaking/qcards/P04-AboutRulesNumbersTitles.pdf)

Recommendation[🞂](http://deq05/intranet/working/rulemaking/qcards/P06-AboutRulesRulemakingActionsDefined.pdf) Division Rule Title SIP/Land use\*

amend 200 0020 General Air Quality Definitions SIP

amend 200 0030

amend 200 0040 State of Oregon Clean Air Act Implementation Plan SIP

adopt 200

amend 210 0100 Registration in General SIP

amend 216 0020 Applicability Land use and SIP

amend 216 0020 Table 1 Land use and SIP

amend 216 0060 General Air Contaminant Discharge Permits Land use and SIP

amend 216 0062 General Air Contaminant Discharge Permit Attachments Land use and SIP

amend 216 0064 Simple Air Contaminant Discharge Permits Land use and SIP

amend 216 0066 Standard Air Contaminants Discharge Permits Land use and SIP

amend 228 0602 Definitions

adopt 216 0068 Simple and Standard Air Contaminant Discharge SIP

Permit Attachments

repeal

\* SIP – this rule is part of the State Implementation Plan.

\* Land use – DEQ State Agency Coordination Program considers this rule, program or activity is a land use program.

Statute implemented🞂

ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310

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| **Clarify and update existing rules**   |  |  |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | | Chapter 340 action   |  |  | | --- | --- | | Adopt | ORS 340-###-####, 340-###-#### or blank | | Amend | ORS 340-###-####, 340-###-#### or blank | | Repeal | ORS 340-###-####, 340-###-#### or blank | | Renumber | ORS 340-###-####, 340-###-#### or blank | | Amend and Renumber | ORS 340-###-####, 340-###-#### or blank | | | Statutory authority  ORS 468.020, 468.065, Enter here - ###.### | | Other authority  ORS Enter here - ###.### | | Statute implemented  ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310 | | Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)   |  |  | | --- | --- | | **Document title** | **Document location** | |  |  | |  |  | | |
| **Update particulate matter standards**   |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | | Chapter 340 action   |  |  | | --- | --- | | Adopt | ORS 340-###-####, 340-###-#### or blank | | Amend | ORS 340-###-####, 340-###-#### or blank | | Amend and Renumber | ORS 340-###-####, 340-###-#### or blank | | | Statutory authority  ORS 468.020, 468.065, Enter here - ###.### | | Other authority  ORS Enter here - ###.### | | Statute implemented  ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310 | | Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)   |  |  | | --- | --- | | **Document title** | **Document location** | | 06/06/90 EPA guidance titled “Performance Test Calculation” | <http://www.epa.gov/ttn/emc/rounding.pdf> | | |
| **Change permitting requirements for small sources**   |  |  |  | | --- | --- | --- | | Chapter 340 action   |  |  | | --- | --- | | Amend | ORS 340-###-####, 340-###-#### or blank | | | Statutory authority  ORS 468.020, 468.065, Enter here - ###.### | | Other authority  ORS Enter here - ###.### | | Statute implemented  ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310 | | Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)   |  |  | | --- | --- | | **Document title** | **Document location** | |  |  | |  |  | | |
| **Change the pre-construction permitting program (New Source Review)**   |  |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | --- | --- | | Chapter 340 action   |  |  | | --- | --- | | Adopt | ORS 340-###-####, 340-###-#### or blank | | Amend | ORS 340-###-####, 340-###-#### or blank | | Renumber | ORS 340-###-####, 340-###-#### or blank | | Amend and Renumber | ORS 340-###-####, 340-###-#### or blank | | | Statutory authority  ORS 468.020, 468.065, Enter here - ###.### | | Other authority  ORS Enter here - ###.### | | Statute implemented  ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310 | | Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)   |  |  | | --- | --- | | **Document title** | **Document location** | |  |  | |  |  | | |
| **Designate Lakeview as sustainment area**   |  |  |  | | --- | --- | --- | | Chapter 340 action   |  |  | | --- | --- | | Adopt | ORS 340-###-####, 340-###-#### or blank | | | Statutory authority  ORS 468.020, 468.065, Enter here - ###.### | | Other authority  ORS Enter here - ###.### | | Statute implemented  ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310 | | Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)   |  |  | | --- | --- | | **Document title** | **Document location** | |  |  | |  |  | | |
| **Provide DEQ more flexibility for public hearings and meetings**   |  |  |  | | --- | --- | --- | | Chapter 340 action   |  |  | | --- | --- | | Repeal | ORS 340-###-####, 340-###-#### or blank | | | Statutory authority  ORS 468.020, 468.065, Enter here - ###.### | | Other authority  ORS Enter here - ###.### | | Statute implemented Legislation [IF RELATIVE]  ORS Enter here - ###.### Enter here- House Bill or Senate Bill ####, yyyy | | Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)   |  |  | | --- | --- | | **Document title** | **Document location** | |  |  | |  |  | | |
| **HeatSmart**   |  |  |  | | --- | --- | --- | | Chapter 340 action   |  |  | | --- | --- | | Amend | ORS 340-###-####, 340-###-#### or blank | | | Statutory authority  ORS 468.020, 468.065, Enter here - ###.### | | Other authority  ORS Enter here - ###.### | | Statute implemented Legislation [IF RELATIVE]  ORS Enter here - ###.### Enter here- House Bill or Senate Bill ####, yyyy | | Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)   |  |  | | --- | --- | | **Document title** | **Document location** | |  |  | |  |  | | |
| **Clean diesel grant and loan rules**  Program or activity - Clean Diesel Initiative   |  |  |  | | --- | --- | --- | | Chapter 340 action   |  |  | | --- | --- | | Amend | OAR 340-259-0010 | | | Statutory authority  ORS 468.020, 468A.803 | | Statute implemented Legislation Year  ORS 468A.803 (1) SB 249 2013 | | Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)   |  |  | | --- | --- | | **Document title** | **Document location** | | SB 249A | http://www.leg.state.or.us/13reg/measpdf/sb0200.dir/sb0249.en.pdf | | |
| **Annual reporting requirement for small gasoline dispensing facilities**   |  |  |  | | --- | --- | --- | | Chapter 340 action   |  |  | | --- | --- | | Amend | ORS 340-###-####, 340-###-#### or blank | | | Statutory authority  ORS 468.020, 468.065, Enter here - ###.### | | Other authority  ORS Enter here - ###.### | | Statute implemented Legislation [IF RELATIVE]  ORS Enter here - ###.### Enter here- House Bill or Senate Bill ####, yyyy | | Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)   |  |  | | --- | --- | | **Document title** | **Document location** | |  |  | |  |  | | |

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| Fee Analysis |

This rulemaking does not involve fees.

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

Fiscal and Economic Impact

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| **Clarify and update existing rules**  There are no fiscal or economic impacts as a result of the proposed rule changes. |
| **Update particulate matter standards**  Currently 95 large businesses are required to hold federal Title V Operating Permits. There are also 570 large businesses that hold state Air Contaminant Discharge Permits.  Particulate Matter Permitting Requirements: DEQ has identified 6 large businesses that may not be able to comply with the lower opacity and grain loading standards without process changes, installation of control equipment or replacement of process equipment. Four of the businesses are wood products facilities with hog fuel boilers. Two of the businesses are asphalt plants.    Hog Fuel Boilers: Some large businesses may need to optimize their boiler operations in order to comply with the lower grain loading and opacity standards. Close monitoring of fuel quality may help some boilers comply while others may need tune-ups. According to one vendor contacted by DEQ, a typical boiler controls tune-up, if no parts need to be replaced, is estimated to cost in the range of $5,000-$10,000. 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 ranges in cost from $30,000 to $60,000. A boiler tune-up may or may not allow sources to comply with the new standards over the long run but could provide other benefits such as reduced fuel costs.  However, if optimizing operations does not achieve compliance with the lower grain loading and opacity standards, businesses may need to install pollution control equipment such as multiclones or electrostatic precipitators. Based on vendor information, multiclones range in cost from $60,000 to $80,000 and will remove some particulate matter but may not be successful in removing enough to comply with the new standard. Information from vendors and a business that recently installed an electrostatic precipitator indicates that the cost of a new ESP ranges from $450,000 to $1,500,000.  Although not yet adopted, EPA has proposed National Emission Standards for Hazardous Air Pollutants for Area and Major Sources: Industrial, Commercial, and Institutional Boilers. These regulations contain very stringent carbon monoxide limits that will apply to all boilers. Many boilers in Oregon cannot comply with the proposed carbon monoxide limits without making process changes or installing a new boiler. These regulations are expected to be finalized in December, 2010 and would enable the source to meet the lower DEQ opacity and grain loading standards. A business that recently installed a new wood-fired boiler (100,000 pounds of steam/hour) paid approximately $8 million. DEQ will tie the compliance schedule for grain loading or opacity to the final EPA boiler standards, if possible, reducing the fiscal impact of this proposed rule.  Asphalt Plants: One asphalt plant cannot meet the existing 0.1 grain/dscf limit and has been referred to DEQ’s enforcement division for enforcement action and civil penalties. It is anticipated that changes required to meet the current grain loading limit will also ensure that the business will be able to meet the proposed lower standard.  The two other asphalt plants that may not be able to meet the lower standards are older plants that utilize wet scrubber controls. In general, for asphalt plants that cannot meet particulate matter standards, the equipment is simply worn out, and often too expensive to repair. In other instances the control equipment (usually the water scrubber) is rusted and leaking air, compromising the pressure drop across the nozzles, thus reducing efficiency. Most of the time, companies with stationary asphalt plants will repair/patch together equipment. Making these repairs is usually done in-house. Portable plants have to be more durable due to set-up and break-down cycles. As a result, they are generally replaced with new or better used equipment.  The company that owns the two asphalt plants that may not be able to meet the lower standards, may elect to retire a plant deemed too expensive to meet the new particulate matter standards. The cost of a new wet scrubber is approximately $\_\_\_\_\_\_ and the cost of a new asphalt plant is approximately $\_\_\_\_\_\_\_\_\_\_\_. |
| **Change permitting requirements for small sources**  The proposed rules may have a negative fiscal and economic impact on businesses that own emergency generators or multiple small boilers that may be required to get permits for these activities. DEQ knows of \_\_\_\_\_ businesses that will be required to get a permit as a result of the proposed rule changes. |
| **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. DEQ is raising the amount of offsets a business may be required to get but allowing for reduced offsets if the business chooses to get the offsets from the sources that are causing the problem in areas where air quality is close to the PM2.5 ambient air quality standard.  In areas that DEQ wants to transition back to attainment more quickly than EPA could redesignate the area, the proposed rules will have a positive fiscal and economic impact on businesses because they will be allowed to meet the attainment area requirements rather than the more stringent nonattainment area requirements. |
| **Designate Lakeview as sustainment area**  The proposed rules will 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. |
| **Provide DEQ more flexibility for public hearings and meetings**  The proposed rules will have a positive fiscal and economic impact on DEQ because they will give the flexibility to hold virtual hearings with people calling in from around the state. This will reduce the amount of travel resources spent. Currently DEQ staff travel to public hearings and meetings, not knowing whether there will be any attendees. |
| **HeatSmart** |
| **Clean diesel grant and loan rules** |
| **Annual reporting requirement for small gasoline dispensing facilities**  DEQ anticipates that there would be a positive fiscal and economic impact 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.  a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.  Estimated number of gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline (540).  b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.  Removing the annual reporting requirement for small gasoline dispensing facilities would reduce the impact of reporting, recordkeeping and other administrative activities, on small businesses. |

Statement of Cost of Compliance

Impacts on general public

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| **Clarify and update existing rules**  DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the general public because these changes will not affect the stringency of DEQ’s rules. |
| **Update particulate matter standards**  DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the general public because of potential changes due to the lower particulate matter standards. However, indirect fiscal or economic impacts to the public may occur through increased prices for services or products as a result of costs associated with additional control or process equipment that may be required to meet lower particulate matter standards. DEQ expects any such price increases to be small and lacks available information upon which it could accurately estimate potential increases.  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 can 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. |
| **Change permitting requirements for small sources**  DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the general public because of the requirement to get a new permit or modify an existing permit to add emergency generators or small boilers. However, indirect fiscal or economic impacts to the public may occur through increased prices for services or products as a result of costs associated with a new permit. DEQ expects any such price increases to be small and lacks available information upon which it could accurately estimate potential increases. |
| **Change the pre-construction permitting program (New Source Review)**  DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the general public because of the requirement to get a permit based on the amount of emissions or the location of the new or modified business. However, indirect fiscal or economic impacts to the public may occur through increased prices for services or products as a result of costs associated with a new permit. DEQ expects any such price increases to be small and lacks available information upon which it could accurately estimate potential increases. |
| **Designate Lakeview as sustainment area**  DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the general public because of the Lakeview sustainment area designation. However, positive indirect fiscal or economic impacts to the public may occur through more businesses locating in Lakeview. DEQ expects any such price decreases to be small and lacks available information upon which it could accurately estimate potential decreases. |
| **Provide DEQ more flexibility for public hearings and meetings**  DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the general public because of the allowance of more flexibility in holding public hearings and meetings. However, positive indirect fiscal or economic impacts to the public may occur through more efficient use of DEQ resources. DEQ expects any such price decreases to be small and lacks available information upon which it could accurately estimate potential decreases. |
| **HeatSmart** |
| **Clean diesel grant and loan rules** |
| **Annual reporting requirement for small gasoline dispensing facilities** |

Impact on other government entities other than DEQ

1. Local governments: Currently 44 county and local government agencies are subject to air permitting regulations. DEQ anticipates that there will be the same fiscal and economic impact on these government entities as listed above.
2. State agencies: Currently there are 24 state and 4 federal government agencies subject to air permitting regulations. DEQ anticipates that there will be a negative fiscal and economic impact on these government entities as listed above.

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

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| **Clarify and update existing rules**  Initial workload for DEQ will increase as a result of the proposed rule changes but will eventually decrease as staff becomes familiar with the proposed rules. |
| **Update particulate matter standards**  Initial workload for DEQ will increase as a result of the proposed rule changes but will eventually decrease as staff becomes familiar with the proposed rules. |
| **Change permitting requirements for small sources**  Initial workload for DEQ will increase as a result of the proposed rule changes but will eventually decrease as staff becomes familiar with the proposed rules. |
| **Change the pre-construction permitting program (New Source Review)**  Initial workload for DEQ will increase as a result of the proposed rule changes but will eventually decrease as staff becomes familiar with the proposed rules. |
| **Designate Lakeview as sustainment area**  Initial workload for DEQ will increase as a result of the proposed rule changes but will eventually decrease as staff becomes familiar with the proposed rules. |
| **Provide DEQ more flexibility for public hearings and meetings**  Initial workload for DEQ will increase as a result of the proposed rule changes but will eventually decrease as staff has more flexibility in holding public hearings and meetings. |
| **HeatSmart** |
| **Clean diesel grant and loan rules** |
| **Annual reporting requirement for small gasoline dispensing facilities**  The workload for DEQ will decrease as a result of the proposed rule changes because there will be fewer reports to process and review. |

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

DEQ anticipates that there will be the same fiscal and economic impact on large businesses as listed above.

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

DEQ anticipates that there will be the same fiscal and economic impact on small businesses as listed above.

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| a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule. | The proposed rules would require all small businesses to comply with lower grain loading and opacity standards. Current compliance information indicates that all small businesses already comply with the proposed standards. |
| b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule. | [EXAMPLE: No additional activities are required to comply with the proposed rules. All manufacturers already pay registration fees.] Enter text here |
| c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule. | No additional costs for equipment, supplies, labor or administration are expected if the amendments are adopted. |
| d) Describe how DEQ involved small businesses in developing this proposed rule. | Small businesses are being informed by announcements on the DEQ website, through direct mailings and email lists, notices in the Secretary of State Bulletin, and ads in local papers. Comments are being requested during the Public Comment period and at Public Hearings held in November. 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

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

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| **Clarify and update existing rules** |
| **Update particulate matter standards** |
| **Change permitting requirements for small sources** |
| **Change the pre-construction permitting program (New Source Review)** |
| **Designate Lakeview as sustainment area** |
| **Provide DEQ more flexibility for public hearings and meetings** |
| **HeatSmart** |
| **Clean diesel grant and loan rules** |
| **Annual reporting requirement for small gasoline dispensing facilities** |

Advisory committee

DEQ did not appoint an advisory committee. The majority of the proposed rule changes are for the New Source Review program. These rules are very complex and affect very few businesses, one to three businesses apply for a New Source Review permit each year. DEQ did hold stakeholder meetings around the state in August to get input from affected businesses and the public on the proposed rule changes.

Housing cost

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| **Clarify and update existing rules**  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. |
| **Update particulate matter 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. |
| **Change permitting requirements for small sources**  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. |
| **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. |
| **Designate Lakeview as sustainment area**  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. |
| **Provide DEQ 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. |
| **HeatSmart** |
| **Clean diesel grant and loan rules**  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 administration of grants to reduce emissions from diesel engines. |
| **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. |

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| **Federal relationship** |

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

Relationship to federal requirements

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| **Clarify and update existing rules**  DEQ determined this rule proposal is “in addition to federal requirements” as required under [ORS 468A.327(1)(a)](http://www.oregonlaws.org/ors/468A.327) and [OAR 340-011-0029(1)(a)](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_011.html).  The proposed rules 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. |
| **Update particulate matter standards**  DEQ has statewide opacity limits of 20% inside special control areas and 40% outside special control areas for new and existing sources, including fugitive emission sources.  Fugitive particulate matter emissions are emissions that are not emitted from a stack, and typically originate from storage piles, material conveying systems, unpaved roads or other dusty activities. It may be possible in many situations to take opacity readings to determine if the opacity standard is exceeded, and to then require the emitting source to take action to abate the emissions if the standard is exceeded. However, there may also be situations where opacity readings are difficult to take, or the emissions do not exceed the opacity standard but are nevertheless objectionable. The more direct approach of requiring abatement of any visible fugitive emissions that leave the source's property, regardless of the actual opacity level, is a simpler, more stringent and more effective approach to controlling such emissions. Therefore, DEQ is proposing to exempt fugitive sources from meeting the 20% opacity limit. EPA Method 22, Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares, is specific for fugitive sources and will be a much better method for determining compliance than EPA Method 9.  There is no equivalent opacity standard for all sources in EPA regulations. The New Source Performance Standard (NSPS) for Metallic Mineral Processing Plants (Subpart LL) requires fugitive emissions to meet 10% opacity using Method 9 for compliance. Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants, contains a limit of 7% 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 from two applicable federal requirements, they are just as, if not more stringent than the two NSPS standards EPA has for fugitive emissions.  Other proposed rules are not different from, or in addition to, applicable federal requirements. Instead they would align DEQ rules with applicable federal requirements, such as including two significant figures for particulate matter standards, 6-minute averages using EPA Method 9 for determining compliance with opacity standards, and specifying test methods with the standards. |
| **Change permitting requirements for small sources**  DEQ determined this rule proposal is “in addition to federal requirements” as required under [ORS 468A.327(1)(a)](http://www.oregonlaws.org/ors/468A.327) and [OAR 340-011-0029(1)(a)](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_011.html).  The proposed rules protect environment by requiring permits for units whose emissions are significant. 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 smaller units than EPA would. |
| **Change the pre-construction permitting program (New Source Review)**  Yes, the proposed rulemaking is different because it modifies 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 the Environmental Protection Agency.  Both programs require preconstruction approval (NSR/PSD) for new major air pollution sources or existing sources making modifications that will increase their emissions above a baseline level by a defined amount known as a “Significant Emission Rate.” The primary difference between Oregon’s existing rules and the federal rules is how the baseline emission level, or netting basis, is established. The netting basis is the emission level in a defined baseline year, adjusted by any required decreases and approved increases of emissions.  Under Oregon’s program, the netting basis is based on actual emissions from a set time period, often the year 1977 or 1978, and is adjusted accordingly based on subsequent changes at the facility. If emissions increase above the netting basis by the Significant Emission Rate for a pollutant, the source triggers NSR/PSD.  Under the federal program NSR/PSD is also triggered by an increase over a Significant Emission Rate, however the concept of baseline and netting basis is different. Instead of having a fixed baseline period, the federal program typically requires a review of the highest actual emissions at a source over any two year period in the previous ten years. Following that review, an annual highest emission level is established and that level is used as the baseline for determining if emissions will increase by more than a Significant Emission Rate.  The proposed rule does not create new differences in the major source preconstruction program from the federal program. It makes changes to Oregon’s rules to maintain equivalency with the federal program. The proposed rule incorporates two new federally regulated pollutants (greenhouse gases and fine particulates) into Oregon’s existing program which is, and has been different from the federal program since its inception.  Oregon’s proposed rules maintain inherent differences between Oregon’s existing permitting program rules and the federal rules for the purpose of administrative consistency with the exception of the SILs which are more stringent for Class II and Class III areas for environmental and administrative reasons. See discussion above in response to Question 1. Adopting the federal program for some pollutants while maintaining the Oregon program for other pollutants could cause confusion and it would be resource intensive to administer two different programs in the state. Also converting the entire program to match the federal program would be a major undertaking, requiring significant resources and technical challenges. In addition to maintaining administrative consistency there are a number of other benefits to the Oregon program as described below.  Oregon’s NSR/PSD program was used as one of the models to support the development of the federal NSR reform rules. In particular, Oregon’s Plant Site Emission Limit was a model for the federal Plantwide Applicability Limit (PAL). The federal PAL is set by adding the Significant Emission Rate to the highest actual emissions over any two year period in the previous ten years.  The foundation for calculating net emission increases or decreases for determining applicability of the NSR/PSD program in the Oregon rules is the Plant Site Emission Limit established for each source. PSELs manage airshed capacity and provide the basis for:   1. assuring reasonable further progress towards attainment of ambient standards; 2. assuring compliance with ambient standards and PSD increments (the maximum concentration increase that is allowed to occur above a baseline concentration for a specific pollutant); 3. administering the emissions trading program; and 4. tracking PSD increment consumption (the cumulative impact of emissions growth in areas that meet air quality standards).   It is also important to note that any increase in actual emissions above the PSEL requires the source to apply for, and DEQ to approve, a revision to the PSEL in the state air quality construction permit. The PSEL rules are consistent with the requirements of the Clean Air Act as they allow increases in actual emissions only if such increases would not exceed applicable emission limitations, or cause ambient air quality standards, PSD increments or reasonable further progress to be violated. The Oregon rules, therefore, have a more clearly established baseline than in the EPA rules.  Because the PSEL is typically based on actual emissions in the 1978 baseline year, the Oregon approach is equivalent to how EPA determines whether there is a net emissions increase. Furthermore, DEQ accumulates **all** emissions increases and decreases from physical changes or changes in operation since the baseline year or last major source permit, whichever is more recent, rather than just during a “contemporaneous” time period. This aspect of DEQ’s program is similar to the federal PAL. Both provide a net environmental benefit and flexibility because they create an incentive for sources to voluntarily reduce emissions in order to avoid triggering NSR/PSD. The PSEL and PAL both have provisions to be reduced if emission reductions at the sources occur and make the caps excessively high. The PSEL and PAL also eliminate the possibility of a gradual increase of emissions over time by piecemeal projects not triggering NSR/PSD. Under the federal rules where a PAL is not chosen, an increase or decrease in actual emissions is contemporaneous. The increases from previous changes at the facility are only looked at if they occurred with 10 years of the date of a proposed new change.  In Oregon all emissions units that contribute to the emissions increase above the SER are required to install retrofit Best Available Control Technology. BACT, an emission limitation based on the maximum degree of emission reduction by the most stringent technology available for controlling emissions, is required unless it can be demonstrated that it is not feasible for energy, environmental, or economic reasons. Under the federal program, the BACT requirement applies to each individual new or modified affected emissions unit and pollutant emitting activity at which a net emissions increase would occur. Individual BACT determinations are performed for each pollutant subject to a PSD review emitted from the same emission unit. Consequently, the BACT determination must separately address, for each regulated pollutant with a significant emissions increase at the source, air pollution controls for each emissions unit or pollutant emitting activity subject to review.  The DEQ program, although substantially different from EPA’s regulations, provides a workable program which is equivalent to EPA’s and will accomplish the Clean Air Act goal of preventing significant deterioration of air quality. |
| **Designate Lakeview as sustainment area**  DEQ determined this rule proposal is “in addition to federal requirements” as required under [ORS 468A.327(1)(a)](http://www.oregonlaws.org/ors/468A.327) and [OAR 340-011-0029(1)(a)](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_011.html).  The proposed rules protect environment and address economic concerns. EPA only designates nonattainment areas. DEQ’s proposal to designate other areas improve Oregon’s New Source Review program by improving air quality in areas where it is needed and providing flexibility for smaller businesses. |
| **Provide DEQ more flexibility for public hearings and meetings**  The proposed rule adopts the federal requirement by reference. |
| **HeatSmart** |
| **Clean diesel grant and loan rules** |
| **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?

Enter description about why DEQ did not pursue these alternatives here.

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| **Clarify and update existing rules**  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 that would perpetuate confusion and errors in the rules. |
| **Update particulate matter standards**  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. |
| **Change permitting requirements for small sources** |
| **Change the pre-construction permitting program (New Source Review)** |
| **Designate Lakeview as sustainment area** |
| **Provide DEQ more flexibility for public hearings and meetings** |
| **HeatSmart** |
| **Clean diesel grant and loan rules**  DEQ did not consider any alternatives because failure to adopt the proposed amendment will undermine the Oregon Clean Diesel Initiative’s effort to support program goals to reduce the adverse impacts from toxic air pollutants and mitigate climate change. |
| **Annual reporting requirement for small gasoline dispensing facilities**  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. |

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| Land use |

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

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

Land-use considerations

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

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

**Goal Title**

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

6 Air, Water and Land Resources Quality

11 Public Facilities and Services

16 Estuarial resources

19 Ocean Resources

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

Determination

DEQ determined that the 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.

ORS 340-216

ORS 340-218

The air quality permit programs require that a new source provide a Land Use Compatibility Statement (LUCS) from local government when applying for a permit. This assures that the source 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.

[**2a**]DEQ’s statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules. Enter rationale for why it is adequate here. [BE BRIEF. EXAMPLE 1: 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans EXAMPLE 2: 340-018-0050(2)(a) - ensuring compatibility with acknowledged comprehensive plans may be accomplished through a Land Use Compatibility Statement.

Existing procedures already adequately cover the proposed rules. New regulated pollutants will be added to those that are required to be permitted and standards for particulate matter will be tightened, but the requirements for the permitting of these activities and the review of their land use impacts remain unchanged.

[POTENTIAL TEXT] DEQ reasonably expects the program, rules or actions to have an insignificant effect on resources, objectives or areas in the planning goals. Enter explanation here.

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| **Clarify and update existing rules** |
| **Update particulate matter standards** |
| **Change permitting requirements for small sources** |
| **Change the pre-construction permitting program (New Source Review)** |
| **Designate Lakeview as sustainment area** |
| **Provide DEQ more flexibility for public hearings and meetings** |
| **HeatSmart** |
| **Clean diesel grant and loan rules**  DEQ did not convene an advisory committee. The proposed adoption is determined to be straightforward and non controversial. |
| **Annual reporting requirement for small gasoline dispensing facilities** |

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| Stakeholder and public involvement |

Advisory committee

DEQ did not convene an advisory committee. Enter reason for not involving advisory committee here

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| **Clarify and update existing rules** |
| **Update particulate matter standards** |
| **Change permitting requirements for small sources** |
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 EQC prior involvement

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

Public notice

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

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

Public hearings

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

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

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

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

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Close of public comment period

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