

Oregon Department of Environmental Quality

**ENTER NOTICE DATE**

Notice of Proposed Rulemaking

**Air Quality Comprehensive Rules Overhaul**

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| --- |
| **Overview** |

Before formal review:

* Delete **BROWN** text
* Select entire document (Ctrl+A) Change grey highlights to No Color



* Delete this box

Short summary

* Make rules easier to use
* Update rules
* Provide more flexibility for smaller and medium -sized sources in nonattainment areas and not yet designated nonattainment areas while addressing air quality problems
* Provide incentives to address air quality problems
* Clarify existing rules
* Repeal unnecessary rules and implement permitting efficiencies consistent with breakthrough

Brief history

* The permitting rules are very complex but we can make them easier to use and make substantive progress on implementing breakthrough team recommendations.
* The rules applying in nonattainment areas require prohibitively expensive controls when they may not be necessary and in some cases prevent construction or modifications.
* A PM2.5 analysis of a typical source in the Klamath Falls nonattainment area with 40% opacity and 0.2 gr/dscf limit showed a single source impacts approximately 30% of ambient standard.
* Located in Klamath Falls PM2.5 NAA
* Add background (e.g., woodstove emissions) and impacts approximately 75% of standard.
* Other affected sources are located in areas similar to Klamath Falls:
  + Small communities that rely on woodstoves to heat homes
  + Similar terrain
  + Similar weather with potential for air stagnation periods in winter time.
* Help prevent violations of the PM2.5 ambient air quality standard

Regulated parties

All permitted sources

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| [OPTIONAL] **Freeform title** [EXAMPLE: **Outline**/**Key issues**/**Crosswalk**/**Map**] |

[IF THE OTHER SECTIONS IN THIS DOCUMENT ADEQUATELY ADDRESS THE ISSUES, DELETE THIS SECTION.THE RULE DESIGN TEAM MAY ADAPT THE TITLES IN THIS SECTION. USE EITHER FORMAT BELOW TO PRESENT MAJOR POINTS.]

Enter freeform title here

Enter text here

Enter freeform title here

Enter text here

| **Title** | **Title** |
| --- | --- |
| Subtitle | Subtitle |
| text | text |
| text | text |

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| **Statement of need** |

[SELECT THE METHOD BELOW THAT BEST COMMUNICATES THE **Statement of Need** FOR THIS PROPOSAL.]

[**METHOD 1:** FOR PROPOSALS THAT ARE STRAIGHTFORWARD]

What problem is DEQ trying to solve?

Enter text here

How would the proposed rule solve the problem?

Enter text here

How will DEQ know the problem has been solved?

Enter text here

[**METHOD 2:** FOR PROPOSALS THAT ADDRESS NUMEROUS, DISPARATE ISSUES]

| **Proposed Rule or Topic** | **Discussion** |
| --- | --- |
| 1. Enter rule or topic title |  |
| What problem is DEQ trying to solve? |  |
| How would the proposed rule solve the problem? |  |
| How will DEQ know the problem has been solved? |  |
| 1. Enter rule or topic title |  |
| What problem is DEQ trying to solve? |  |
| How would the proposed rule solve the problem? |  |
| How will DEQ know the problem has been solved? |  |
| 1. Enter rule or topic title |  |
| What problem is DEQ trying to solve? |  |
| How would the proposed rule solve the problem? |  |
| How will DEQ know the problem has been solved? |  |
| 1. Enter rule or topic title | |
| What problem is DEQ trying to solve? |  |
| How would the proposed rule solve the problem? |  |
| How will DEQ know the problem has been solved? |  |

[**METHOD 3:** FOR PROPOSALS THAT ADDRESS NUMEROUS, DISPARATE ISSUES]

1. **Enter rule or topic title**

What problem is DEQ trying to solve?

Enter text here

How would the proposed rule solve the problem?

Enter text here

How will DEQ know the problem has been solved?

1. **Enter rule or topic title**

What problem is DEQ trying to solve?

Enter text here

How would the proposed rule solve the problem?

Enter text here

How will DEQ know the problem has been solved?

1. **Enter rule or topic title**

What problem is DEQ trying to solve?

Enter text here

How would the proposed rule solve the problem?

Enter text here

How will DEQ know the problem has been solved?

Enter text here

[**METHOD 4:** ANY COMBINATION OF THE METHODS ABOVE.]

Request for other options

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

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| Rules affected, authorities, supporting documents |

Lead divisionProgram or activity

Enter text here Enter text here

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 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)

[BRIEFLY DESCRIBE THE PRINCIPAL DOCUMENTS, REPORTS OR STUDIES RELIED ON TO DEVELOP THIS PROPOSAL. INCLUDE THE LOCATION WHERE THE DOCUMENTS ARE AVAILABLE FOR PUBLIC INSPECTION. THE LIST MAY BE ABBREVIATED IF THE TEAM IDENTIFIES THE LOCATION OF THE COMPLETE LIST.]

|  |  |
| --- | --- |
| **Document title** | **Document location** |
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| Fee Analysis |

[OPTION 1]

Insert finalized FEE.ANALYSIS here

[OPTION 2]

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) |

For proposals that address numerous issues, the rule design team may use one of the methods under the Statement of Need section if it clarifies how this section applies to the disparate elements of this rulemaking.

ORS 183.335 (2)(b)(E) A statement of fiscal impact identifying state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.

If you convened an advisory committee - [click here](file:///\\deqhq1\Rule_Resources\0.IndividualRulemaking\2-Stakeholder%20Involvement\Q-Cards\Draft%20Q-Cards\2-AdvisoryCommittees.pdf).

Delete this box and delete 16 blank lines above Fiscal and Economic Impact.

Fiscal and Economic Impact

[SUMMARIZE THE CHANGES THAT WOULD OR COULD CREATE AN IMPACT] Enter text here

Statement of Cost of Compliance

Impacts on general public

[CONSIDER BOTH POSITIVE AND NEGATIVE IN A BRIEF DESCRIPTION OF THE PROJECTED FISCAL AND ECONOMIC IMPACTS AND COSTS OF COMPLIANCE ON THE GENERAL PUBLIC.] Enter text here

Impact on other government entities other than DEQ

[CONSIDER BOTH POSITIVE AND NEGATIVE IN A BRIEF DESCRIPTION OF THE PROJECTED FISCAL AND ECONOMIC IMPACTS AND COSTS OF COMPLIANCE ON STATE AGENCIES. IT IS OK TO REFERENCE #1, 2 OR 3 ABOVE IF THE TEXT WOULD BE IDENTICAL.]

1. Local governments Enter text here
2. State agencies Enter text here

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

[CONSIDER BOTH POSITIVE AND NEGATIVE IN A BRIEF DESCRIPTION OF THE PROJECTED FISCAL AND ECONOMIC IMPACTS AND COSTS OF COMPLIANCE ON DEQ. IT IS OK TO REFERENCE 1, 2, 3 or 4 ABOVE IF THE TEXT WOULD BE IDENTICAL.] Enter text here

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

[CONSIDER BOTH POSITIVE AND NEGATIVE IN A BRIEF DESCRIPTION OF PROJECTED FISCAL AND ECONOMIC IMPACTS AND COSTS OF COMPLIANCE ON LARGE BUSINESSES. IT IS OK TO REFERENCE #1 OR #2 ABOVE IF THE TEXT WOULD BE IDENTICLE. ] Enter text here

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

[CONSIDER BOTH POSITIVE AND NEGATIVE IN A BRIEF DESCRIPTION OF THE PROJECTED FISCAL AND ECONOMIC IMPACTS AND COSTS OF COMPLIANCE ON SMALL BUSINESSES. IT IS OK TO REFERENCE 1. ABOVE IF THE TEXT WOULD BE IDENTICLE. ]Enter text here

|  |  |
| --- | --- |
| a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule. | [EXAMPLE: Assuming all manufacturers in the lowest fee tier are small businesses, 109 small businesses could be affected by this rule.]Enter text here |
| 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. | [EXAMPLE: No additional resources are required for compliance with the proposed rules. All manufacturers already pay registration fees.] Enter text here |
| d) Describe how DEQ involved small businesses in developing this proposed rule. | [EXAMPLE: DEQ included small business representatives on the Oregon E-Cycles Registration Fee Advisory Committee that advised DEQ on the cost of compliance for small businesses. DEQ also provided notice of the proposed rules to all manufacturers registered under Oregon E-Cycles, the fee-payers, including those that are small businesses.] Enter text here |

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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| **Document title** | **Document location** |
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Advisory committee

[THE PURPOSE OF REQUESTING THIS INFORMATION IS TO MEET REQUIREMENTS UNDER THE ADMINISTRATIVE PROCEDURES ACT. THIS DOCUMENT ASKS FOR ADDITIONAL Advisory committee INFORMATION UNDER THE Stakeholder and public involvement SECTION BELOW.]

**[OPTION 1]**

DEQ appointed an advisory committee and considered the committee’s recommendations on this fiscal and economic impact statement. In compliance with [ORS 183.333](http://www.leg.state.or.us/ors/183.html), DEQ asked for the committee’s recommendations on:

* Whether the proposed rules would have a fiscal impact,
* The extent of the impact, and
* Whether the proposed rules would have a significant impact on small businesses and complies with [ORS 183.540](http://www.leg.state.or.us/ors/183.html).

The committee reviewed the fiscal impact statement and documented its recommendation in **[1a]** the Name committee-developed document here **[1b]** approved minutes dated Enter date using style guide format – mmm dd, yyyy, EXAMPLE: Jan. 14, 2013.

The committee Enter specifics about the committee’s fiscal impact review here. **[OPTION – if small businesses are involved]** In compliance with [ORS 183.540](http://www.leg.state.or.us/ors/183.html), the committee considered how to reduce the economic impact on small business and determined Describe applicable elements under [ORS 183.540](http://www.leg.state.or.us/ors/183.html).

**[OPTION 2]**

DEQ did not appoint an advisory committee. Enter statement describing why DEQ did not convene and advisory committee here. [BE BRIEF.]

Housing cost

**[OPTION 1 – impact]**

To comply with [ORS 183.534](http://www.leg.state.or.us/ors/183.html), DEQ determined the proposed rules would 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. Enter qualifying statement describing what/how these parcels are involved here. [BE BRIEF.]

**[OPTION 2 – no impact]**

To comply with [ORS 183.534](http://www.leg.state.or.us/ors/183.html), 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. Enter reason why these parcels are not involved here. [BE BRIEF. EXAMPLE: The proposed rules only affect manufacturers of electronic devices sold in or into Oregon.]

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| **Federal relationship** |

[FOR PROPOSALS THAT ADDRESS NUMERSOUS ISSUES, USE ONE OF THE METHODS UNDER THE Statement of Need SECTION IF IT CLARIFIES HOW THIS SECTION APPLIES TO THE DISPARATE ELEMENTS OF THIS RULEMAKING.]

*"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

[**OPTION 1** – verbatim or by reference]

The proposed rule adopts the federal requirement Choose an item.. Enter description that includes the name and citation here. [BE BRIEF.]

[**OPTION 2**– in addition to federal requirements]

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 [2a] incorporate science applicable to Oregon, [2b] incorporate technological advances, [2c] protect public health, [2d] protect environment, [2e] address administrative issues [2f]economic concerns [2g] others. Enter additional information about how and why the proposed rules are different from the federal requirements here.

What alternatives did DEQ consider if any?

Enter description about why DEQ did not pursue these alternatives here. [IF OTHER PARTS OF THIS DOCUMENT DESCRIBES ALTERNATIVES CONSIDERED, DOJ ADVISES US TO DUPLICATE THE INFORMATION HERE.]

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| Land use |

For proposals that address numerous issues, the rule design team may use one of the methods under the Statement of Need section if it clarifies how this section applies to the disparate elements of this rulemaking. Delete this box after the team has settled on a method.

*“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

[OPTION 1]

DEQ determined that the proposed rules listed under the Chapter 340 Action section above **do not affect** existing rules, programs or activities that are considered land-use programs and actions in OAR 340-018-0030 or in the DEQ State Agency Coordination Program.

[OPTION 2]

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 340-000-0000 Enter optional text here

ORS 340-000-0000 Enter optional text here

[**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.

[**2b**]DEQ’s statewide goal compliance and local plan compatibility procedures do not cover the proposed rules. Enter criteria and rationale used to determine the proposed rules are land-use rules here.

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

[2c]The proposed rules are not subject to existing compliance and local plan compatibility procedures. To ensure compliance and compatibility, DEQ will Enter information about new procedures DEQ will use to ensure compliance and compatibility here.

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| Stakeholder and public involvement |

Advisory committee

[THE PURPOSE OF THE ADVISORY COMMITTEE INFORMATION IS IN THIS LOCATION IS TO PRESENT A COMPLETE PICTURE OF OUR PUBLIC INVOLVEMENT. MAKE SECTIONS ARE NOT EXACT, MAKE SURE THEY DO NOT CAUSE AMBIGUITY.]

[OPTION 1]

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

[OPTION 2]

DEQ convened the Enter committee name here advisory committee on Enter date using style guide format – mmm dd, yyyy, EXAMPLE: Jan. 14, 2013. Describe committee charter here

The ##-member committee included representatives from Generally describe committee makeup here. The committee met ## times over ## months. In additional to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee Summarize involvement and link to any formalized recommendation here.

Roster

|  |  |
| --- | --- |
| Name | Representing |
| Enter name, Chair |  |
| Enter name, Co-Chair |  |
| Enter name, Member |  |
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The committee recommended that [SUMMARIZE RECOMMENDATION OR INVOLVEMENT AND LINK TO ANY FORMAL RECOMMENDATION.] The committee reviewed the fiscal impact statement, specifically impact on small businesses.

 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.