**DEQ contacts:**

**Media**

Public Affairs Specialist William Knight, 503-757-1889, [knight.william@deq.state.or.us](mailto:knight.william@deq.state.or.us)

**Senior Managers**

Air Quality Division Administrator Andy Ginsburg, 503-229-5397, [ginsburg.andy@deq.state.or.us](mailto:ginsburg.andy@deq.state.or.us)

Program Operations Manager Uri Papish, 503-229-6480, [papish.uri@deq.state.or.us](mailto:papish.uri@deq.state.or.us)

**Project or issue**

DEQ is proposing changes to the air quality permitting program rules to:

* simplify/clarify existing rules;
* improve air quality throughout the state, especially in areas that do not meet ambient air standards; repeal outdated rules;
* improve timeliness; and
* align program rules with new federal rules.

The changes will improve the permitting process while providing environmental benefit and more flexibility for permitted businesses. DEQ is also proposing rule changes due to changes in EPA rules.

**Purpose of your communication**

* Share information and involving stakeholders.
* Provide an opportunity for citizens and businesses affected by the rule change to offer comments for consideration.
* Meet legal requirements and agency standards for public involvement.

**Key messages**

* The updated rules will be more “user friendly” and easier to understand and interpret properly.
* Some of the rules do not produce a net air quality benefit and must be updated
* Portions of the rules are outdated because:
  + EPA has adopted rules that regulate certain businesses and
  + Some types of businesses no longer exist in Oregon (sulfite pulp mills, aluminum plants, ferronickel smelters)
* DEQ is incorporating rule changes from EPA (Significant Impact Levels and Significant Monitoring Concentrations)

**Background**

DEQ undertook this proposed rulemaking in order to clean up the air quality rules by moving procedural requirements out of the division of definitions and combining common definitions throughout all the divisions into one division.

Some DEQ rules are no longer needed because certain industries have shut down so those rules are proposed for repeal (sulfite pulp mills, aluminum plants, ferronickel smelters). DEQ’s for Regional Haze Plan was adopted and approved in 2010 so the Sulfur Dioxide Emissions Inventory rules and the Federal Acid Rain Program Rules for Western Backstop SO2 Federal Trading Program are no longer needed. EPA has adopted rules for manufacturers, distributors, and retail or commercial applicators of spray paint for sale or use in the Portland AQMA so DEQ spray paint rules are no longer needed.

In the meantime, air quality in Lakeview exceeded the 24-hour PM2.5 standard and has not been designated as a nonattainment area, making it impossible for businesses to build or expand in the area based on current regulations. For larger businesses, this problem will remain until the area meets the standards or is designated nonattainment. For smaller businesses, DEQ has developed requirements that will enable these businesses to get offsets from the cause of the air quality problem whether it is from woodstoves or other industrial businesses. This will allow construction of the smaller sources and also improve air quality in the area. DEQ is also fixing air quality analysis rules that are unworkable making it impossible for the business to prove a net air quality benefit.

In a recent rulemaking for Klamath Falls to bring the area back into attainment with the 24-hour PM2.5, DEQ provided an option for reducing emissions increases with offsets from a buy-out program for woodstoves. Since other areas cannot meet the ambient air quality standards because of air pollution from woodstoves, DEQ decided to make this option available in all areas of the state.

While doing the analysis for Klamath Falls, DEQ determined that particulate matter emissions from industrial sources, in addition to woodstove, can also cause exceedances of the standard so DEQ is proposing lowering of the grain loading and opacity standards throughout the state.

*Guiding questions:*

* What do audiences think or believe about the project or issue?
* How are people involved with issue – in the past and currently?
* To whom has DEQ talked to about the project or issue?
* What has DEQ told audiences?
* Is there a relevant evolution of rules, regulations and laws that affect the situation?

**Goals and desired outcomes**

This proposed rulemaking will make it easier to understand and interpret the air quality regulations. It will also help address emissions from the specific sources that are causing exceedances or potential exceedances of the standards.

* Protect the environment according to state laws and regulations.
* Clearly communicate the proposed changes in DEQ’s rules.
* Provide information to Oregonians and opportunities for input through a thorough and transparent public process.

**Legal or program requirements**

The Oregon Administrative Procedures Act (ORS 183.335) requires:

* opportunity for interested persons to be notified of the agency’s proposed action at least 28 days before the effective date, to persons who have requested notice; and
* electronic mail, at least 49 days before the effective date, to the chair or co-chairs of any interim or session committee with authority over the subject matter of the rule
* A request for public comment on whether other options should be considered for achieving the rule’s substantive goals while reducing the negative economic impact of the rule on business.

ORS 183.333 encourages the following:

* involve the public in the development of public policy and in the drafting of rules whenever possible
* seek public input to the maximum extent possible before giving notice of intent to adopt a rule
* may appoint an advisory committee that will represent the interests of persons likely to be affected by the rule, or use any other means of obtaining public views that will assist the agency in drafting the rule
* develop a list of interested parties and inform those parties of any issue that may be the subject of rulemaking and invite the parties to make comments on the issue
* seek the committee’s recommendations on whether the rule will have a fiscal impact, what the extent of that impact will be and whether the rule will have a significant adverse impact on small businesses.

If an advisory committee is not appointed:

* an explanation as to why no advisory committee was used to assist the agency in drafting the rule; and
* if 10 or more persons likely to be affected by the rule object to the agency’s statement of fiscal impact, the agency shall appoint a fiscal impact advisory committee to provide recommendations on whether the rule will have a fiscal impact and what the extent of that impact will be.

**Constraints**

* The technical aspects of permitting larger businesses are extremely complex and very few people in the state understand the requirements.
* There has been significant opposition to this permitting program from environmental groups in the past. A lawsuit may be filed.

**Worst-case scenario**

* Businesses may contact their legislators and complain about tighter particulate matter limits in the face of economic hard times
* Environmental groups may file a lawsuit over our permitting rules for larger businesses. There has been significant opposition to this permitting program from environmental groups in the past. They believe that the Oregon NSR/PSD program is not as stringent as the federal program even though EPA has approved our program as equivalent if not more stringent. Our NSR/PSD rules have a fixed baseline period of 1977/78. If a business happened to be emitting a lot of pollution during that time, they may have a windfall of emissions in their permit. That windfall has been reduced over the years by other DEQ rule changes but PEAC still doesn’t like DEQ’s fixed baseline period. EPA has a 2-year moving baseline period which PEAC thinks is more stringent.

PEAC filed a petition on behalf of Neighbors for Clean Air in the 9th Circuit in 2012 regarding EPA’s final action on Oregon’s PSD/ GHG submission.  PEAC did not submit any comments on EPA’s proposed action but filed its petition after EPA’s final action.  In any event, PEAC’s petition did not address the substance of the Oregon rules but was, rather, focused on a procedural issue – they argued that EPA had not provided adequate public notice of the scope of our action. The group eventually withdrew its petition to the 9th Circuit.

Based on PEAC’s 2012 petition, DEQ expects some type of outcry from environmental groups.

* Affected businesses are unable to provide meaningful comments on rule changes that affect them.
* The public becomes confused and thinks DEQ is changing the rules to avoid federal air quality standards.
* The public and businesses affected are confused by the rulemaking and assume DEQ is tightening restrictions without justifiable cause.

**Measurement**

**Goal:**

* This proposed rulemaking will make it easier to use the air quality regulations.
* It will also help address emissions from the specific sources that are causing exceedances or potential exceedances of the standards.

**Measurement:**

* A survey of businesses/consultants on ease of use before and after the rule changes
* Better air quality (monitoring data)

**Rationale:**

* By tracking how much time permit writers spend answering questions, DEQ can assess the success of simplifying/clarifying its rules.
* By evaluating ambient air quality monitoring data, DEQ can assess the success of the tighter particulate matter standards and the effectiveness of targeting air quality problems around the state.

**People who may be interested and should be involved in outreach**

* Permitted businesses – additional cost of doing business
* Environmental organizations – degradation of air quality
* General public - both

**Involved DEQ staff**

* Person: Jill Inahara project manager for this rulemaking. Inahara will draft proposed rules, a public notice, and a response to comments; organize a public hearing; and prepare the project’s final report.
  + Title/position: Air Quality Division Environmental Engineer
  + Office: Headquarters
  + Email contact: [inahara.jill@deq.state.or.us](mailto:inahara.jill@deq.state.or.us)
  + Phone contact: 503-229-5001
  + Why involved: Main staff person for the project
* Person: Mark Fisher is a lead technical staff for this rulemaking. Fisher will draft and review proposed rules and a response to comments.
  + Title/position: Eastern Region Senior Permit Writer
  + Office: Bend
  + Email contact: [fisher.mark@deq.state.or.us](mailto:fisher.mark@deq.state.or.us)
  + Phone contact: 541-633-2022
  + Why involved: Main technical staff person for the project
* Person: George Davis is a lead technical staff for this rulemaking. Davis will draft and review proposed rules and a response to comments.
  + Title/position: Northwest Region Senior Permit Writer
  + Office: Portland
  + Email contact: [davis.george@deq.state.or.us](mailto:davis.george@deq.state.or.us)
  + Phone contact: 503-229-5534
  + Why involved: Main technical staff person for the project
* Person: Gary Andes is a lead technical staff for this rulemaking. Andes will draft and review proposed rules.
  + Title/position: Western Region Senior Permit Writer
  + Office: Salem
  + Email contact: [andes.gary@deq.state.or.us](mailto:andes.gary@deq.state.or.us)
  + Phone contact: 541-378-5316
  + Why involved: Main technical staff person for the project
* Person: Karen White-Fallon is a lead technical staff for this rulemaking. White-Fallon will draft and review proposed rules.
  + Title/position: Western Region Senior Permit Writer
  + Office: Salem
  + Email contact: [white-fallon.karen@deq.state.or.us](mailto:white-fallon.karen@deq.state.or.us)
  + Phone contact: 541-378-5315

Why involved: Main technical staff person for the project

**Responsibilities and approval process**

Jill Inahara will create preliminary documents. Uri Papish and William Knight will sign off on them. Uri Papish has the authority to approve a final document/plan for release.

**Outreach tools**

**Tool:** GovDelivery and direct mail to stakeholders and interested parties

**Target audience:** All people interested in air quality rulemaking and all permitted businesses. *.*

**Rationale:** People who are interested in air quality rulemaking have signed up for notices by giving us their email addresses. There are only a couple people that would like notice by US mail.

I will use GovDelivery to email notice of the public notice period to all people interested in air quality rulemaking along with all permitted businesses. Public hearings will be held in November.

**Tool:** Direct contact via phone or letter

**Target audience:** All permitted businesses

**Rationale:** Ensure that affected businesses are aware of the rulemaking and how it will affect their business. Ensure businesses know how to comment and understand the purpose and intent of the rulemaking.

**Tool:** News Release

**Target audience:** News media and people interested in air quality rulemaking and all permitted businesses.

**Rationale:** To announce public hearing/meeting dates and as necessary the formation of advisory committees and meetings and comment period deadlines. The news release also creates a web presence and can provide links to the rulemaking pages and materials. When ready for the EQC this item will be on the agenda and likely announced in the EQC news release.

**Tool:** SOS bulletin, Legal notices and/or display advertisements

**Target audience:** All people interested in air quality rulemaking and all permitted businesses.

**Rationale:** Provide a legal notice about the proposed rulemaking in the Oregonian, Daily Journal of Commerce or Oregon Business Journal. Consider purchasing display ads (may be cheaper than a legal notice) to announce public meetings.

**Tool:** Web updates and postings

**Target audience:** All people interested in air quality rulemaking and all permitted businesses.

**Rationale:** DEQ’s online rulemaking page will be used to post the rulemaking documents. This item will also appear on the EQC agenda and minutes at the appropriate time.

**Timeline and task list**

| Task | Detail | Start date | Due date | Owner | Status |
| --- | --- | --- | --- | --- | --- |
| Draft communications plan | Write a first draft of communications plan | 03/13/13 | 03/18/13 | Jill Inahara | In progress |
| Review and approve communications plan | - | 03/18/13 | 03/25/13 | Uri Papish | In progress |
| Stakeholder Meetings | Enviros – 08/08  AOI – 08/09  Eugene – 08/12  Medford – 08/13  Pendleton – 08/15 | 08/08/13 | 08/16/13 | Gary Andes  George Davis  Mark Fisher  Jill Inahara  Karen White-Fallon |  |
| Fact sheets, web pages |  |  |  | Jill Inahara |  |
| news release |  |  |  | Jill Inahara |  |
| Schedule public hearing | Review best dates, venue and logistics for a public hearing in November 2013 | 08/01/13 | 08/05/13 |  |  |
| Draft public notice for hearing | Write a public notice for public hearing, work with agency rules coordinator to publish in Secretary of State Bulletin | 09/01/13 | 09/05/13 | Jill Inahara |  |
| Review business office materials | Review accounting information for proposed changes |  |  |  |  |
| respond to comments |  |  |  |  |  |
| staff report |  |  |  |  |  |

**Notes or additional comments**

Is there anything else you, or another person, need to know about the project and its communications? What else is critical to convey about your project that may not be covered above?

**Review and approvals**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_**

**Plan completed Date**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_**

**Communications and Outreach review Date**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_**

**Manager’s approval Date**

**Modifications reviewed and approved**

Each substantive modification to the plan (meaning anything more than typographical, grammatical or factual corrections) should be reviewed and approved by the Office of Communications and Outreach and a manager.

***Modification one:*** *Short descriptive statement of modification*

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_**

**Communications and Outreach review Date**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_**

**Manager’s approval Date**

**RESULTS**

**Summary**

Briefly describe whether you think this outreach effort worked. What were the major highlights? What were major concerns or unanticipated issues? Did it go according to plan? Did it stay within the expected timeframe?

**Measurements**

Include measurements listed in the plan and the actual results.

**Data:** What did you measure?

**Result:** What happened?

**Explanation:** Did the result meet the threshold for success? Explain.

**Analysis and follow-up**

If outreach was a success, say so. If more or different outreach is needed, briefly describe options and provide some next steps for follow-up, if necessary.