

 Oregon Department of Environmental Quality

 Enter date that comment period begins mmm dd, yyyy

 Notice of Proposed Rulemaking

**Update to the Oregon State Implementation Plan for PM 2.5 Standard and Definition of National Ambient Air Quality Standards**

How to hide instructions and examples

All cobalt blue text and EXAMPLES are in the Font Effects | Hidden. Word identifies hidden text by underlining it with dots. You may use one of the following methods to show/hide hidden text:

1. Press paragraph symbol displayed in Paragraph grouping.



1. Press [Ctrl] [Shift] [8] keys simultaneously

To find and delete all hidden text before publishing, press [Ctrl] [F] keys, press Format button, and select the Font | Effects | Hidden box and press OK button. On the Replace tab, place cursor in Replace with: box and press Delete key then press Replace All button.



Administrative Procedures Act Requirements

All DEQ public writing for rulemaking must be clear and simple to meet requirements of the Administrative Procedures Act.

ORS 183.750 Readability of Public Writings

Article Content

183.750 State agency required to prepare public writings in readable form.

(1) Every state agency shall prepare its public writings in language that is as clear and simple as possible.

(2) As used in this section:

(a) “Public writing” means any rule, form, license or notice prepared by a state agency.

(b) “State agency” means any officer, board, commission, department, division or institution in the executive or administrative branch of state government. [Formerly 183.025]

Note: 183.750 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 183 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ORS 183.335

Notice

(2)(a) The notice required by subsection (1) of this section must include:

…(B) An objective, simple and understandable statement summarizing the subject matter and purpose of the intended action in sufficient detail to inform a person that the persons interests may be affected, and the time, place and manner in which interested persons may present their views on the intended action.

Plain Language

When you write this document, and all other public rulemaking documents, your publication reviewers will follow plain language guidelines. We, your reviewers recommend the following resources for anyone who has not taken a plain language course or who needs a refresher.

FAA Plain Language Course. [[LINK](http://www.faa.gov/about/initiatives/plain_language/basic_course/)] It will take about an hour. It has some quirkiness and a few shots of humor.

For more details in an online or printable format, use the Federal Plain Language Guidelines. [[LINK](http://www.plainlanguage.gov/howto/guidelines/FederalPLGuidelines/TOC.cfm)]

Agency Communications on Q-Net offers the DEQ-centric Style and writing resources [[LINK]](http://deq05/intranet/communication/index.htm)

|  |
| --- |
| Overview |

## Updates to the Oregon Clear Air Act State Implementation Plan are needed to ensure that Oregon DEQ has the authority to implement the current National Ambient Air Quality Standard for particulate matter (PM 2.5). The proposed rule amendments update infrastructure elements of Oregon’s State Implementation Plan (SIP) and allow for approval by the U.S. Environmental Protection Agency of the revised Oregon State Implementation Plan.

## Enter a short high-level summary about what we propose. It needs to be factual and impartial. Use bullets to help your readers pick up the gist of our proposal at a glance. Do not include supporting evidence or justification for why we are proposing the rules though you may refer to the Statement of need section from more details.

EXAMPLE:

DEQ proposes rules to increase water quality fees by 2.9 percent for individuals, businesses and government agencies that hold the following permits effective Nov. 1 2014:

* National Pollutant Discharge Elimination System permits
* Water Pollution Control Facility permits
* Water Pollution Control Facility permits specific to onsite septic systems

Required for SIP RulesDEQ proposes the Oregon Environmental Quality Commission approve the proposed rules for incorporation into the Oregon Clean Air Act State Implementation Plan and submittal to the U. S. Environmental Protection Agency for its approval under the federal Clean Air Act.

## Brief history

Section 110 of the clean Air Act, 40 USC §7410, requires state and local air pollution control agencies to adopt federally approved control strategies to minimize air pollution. The resulting body of regulations is known as the State Implementation Plan, or more commonly called a “SIP”

State Implementation Plans serve two main purposes:

1. To demonstrate that the state has the basic air quality management program components in place to implement new or revised NAAQS; and
2. To identify the emissions control requirements that state will rely upon to attain and/or maintain the primary and secondary NAAQS

All states are required to submit SIPs with general infrastructure elements showing the state has the capacity to implement new or revised NAAQS. Infrastructure SIP submittals must include the basic program requirements for managing air quality required in Section 110(a)(2) of the Clean Air Act (CAA), as listed in

**Figure 1: Required Infrastructure Elements Tracked for Each State**

Section 110(a)(2)(A) Emission limits and other control measures

Section 110(a)(2)(B) Ambient air quality monitoring/data system

Section 110(a)(2)(C) Program for enforcement of control measures

Section 110(a)(2)(D)(i) - I Prong 1: Interstate transport - significant contribution

Section 110(a)(2)(D)(i) - I Prong 2: Interstate transport - interfere with maintenance

Section 110(a)(2)(D)(i) - II Prong 3: Interstate transport - prevention of significant deterioration Section 110(a)(2)(D)(i) - II Prong 4: Interstate transport - protect visibility

Section 110(a)(2)(D)(ii) - Interstate and international pollution abatement

Section 110(a)(2)(E) Adequate authority and resources

Section 110(a)(2)(F) Stationary source monitoring system

Section 110(a)(2)(G) Emergency power

Section 110(a)(2)(H) Future SIP revisions Section 110(a)(2)(J) Consultation with government officials; Public notification; PSD and visibility protection

Section 110(a)(2)(K) Air quality modeling/data Section 110(a)(2)(L) Permitting fees

Section 110(a)(2)(M) Consultation/participation by affected local entities

The Clean Air Act requires the EPA to set National Ambient Air Quality Standards for wide-spread pollutants from numerous and diverse sources considered harmful to public health and the environment. The Clean Air Act established two types of National Ambient Air Quality Standards. Primary standards set limits to protect public health, including the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards set limits to protect public welfare, including protection against visibility impairment, damage to animals, crops, vegetation, and buildings. The Clean Air Act requires periodic review of the science upon which the standards are based and the standards themselves.

SIPs generally establish emission limits or work practice standards to minimize emissions of the air pollutants (and their precursors) for which EPA has issued air quality criteria (the “criteria pollutants”). The six current criteria pollutants are sulfur oxides (sulfur dioxide as indicator), particulate matter, oxides of nitrogen (nitrogen dioxide as indicator), lead, carbon monoxide, and ozone. EPA has established NAAQS for these pollutants and has updated these standards over time. As the NAAQS change, states must submit revisions to the infrastructure elements of their SIPs to reflect these changes.

On December 14, 2012 the US EPA revised the national primary ambient air quality standards for PM 2.5 to protect the public from adverse health effects, as appropriate under CAA Section 109, by:

* Revising the NAAQS for fine particle to 12.0 micrograms per cubmic meter (µ/m3) and retaining the 24-hour fine particle standard of 35 µ/m3..

Main Functions of a State Clean Air Act Implementation Plan (SIP) There are three overarching activities that occur when a National Ambient Air Quality Standard is added or revised, as summarized below:

* Within two years of revising the NAAQS for a criteria pollutant, EPA is required to identify or “designate” areas as meeting (attainment areas) or not meeting (nonattainment areas) the standard. Designations are based on the most recent set of air monitoring data. *(see* CAA Section 107(d)(1)(B), 42 USC § 7407(d)(1)(B).*)*
* Within three years of EPA designations, all states must submit revisions to their state implementation plans to show they have the basic air quality management program

components in place to implement a new or revised NAAQS, as specified in Clean Air Act section 110. These plans are often called "infrastructure SIPs”. *(see* CAA Section 110(a)(1), 42 USC § 7410(a)(1)*)*.

* Within three years of area designations, states are required to submit nonattainment area SIPs to EPA for any criteria pollutant for which the standard is not met. Each nonattainment area SIP must outline the strategies and emissions control measures that show how the area will improve air quality and meet the NAAQS. *(see* CAA Section 172, 42 USC § 7502.*)*

[Skipped tables and monitoring stuff – ask David C.]

Infrastructure SIP submittals

This proposal addresses the federal Clean Air Act requirement that states must submit infrastructure SIPs within three years of a NAAQS revision to demonstrate they have the basic air quality program components in place to implement the revised NAAQS. The proposed rule amendments are needed to ensure DEQ has the necessary authority to enforce and implement the latest NAAQS for nitrogen dioxide, sulfur dioxide and lead.

The proposed rule amendments would revise the existing Ambient Air Quality Standards for PM 2.5 under Oregon Administrative Rule chapter 340, division 202 to reflect the 3-year average of the annual arithmetic mean adopted by the EPA.

* Regulated parties

OPTIONAL – Do not repeat information entered above or required in other sections of this document. The Statement of Need section includes different methods for presenting numerous, disparate issues.

## Regulated parties

The proposed amendment of Oregon Administrative Rule 340-200-0040 to Enter program name here Air Planning into the State of Oregon Clean Air Act Implementation Plan does not change the regulated parties.

SIP OPTION The proposed amendment of Oregon Administrative Rule 340-200-0040 to Enter program name here into the State of Oregon Clean Air Act Implementation Plan does not change the regulated parties.

## Request for other options

During the public comment period, DEQ requests 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.

During the public comment period, DEQ requests 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. REQUIRED LANGUAGE – DO NOT CHANGE

|  |
| --- |
| **Crosswalk Submittal, Interstate Transport****OPTIONAL** Freeform title **EXAMPLE**: Outline/Key issues/Crosswalk/Map |

If other sections in this document address the issues adequately, delete this section. The core team may adapt titles and in this section. Use one of the formats below to present your information.

Infrastructure SIP: Other documentation (Crosswalks)

In addition to the rule amendments described above, DEQ is submitting what is referred to as a “crosswalk” for EQC approval and submittal to EPA (see Tables 4-6). A separate crosswalk is provided for NO2, SO2 and Lead with this rulemaking proposal, each addressing the required infrastructure SIP elements of CAA Section 110(a)(2)(A) - 110(a)(2)(M).

The crosswalks were developed in collaboration with EPA Region 10 and are included with this proposal for EQC approval and submittal to EPA as DEQ’s demonstration that the Oregon SIP meets the infrastructure requirements to implement, maintain and enforce the NAAQS for NO2, SO2 and Pb as specified in Section 110 of the Clean Air Act. The crosswalks address the required infrastructure elements of Section 110(a)(1) and 110(a)(2), with some exceptions, as discussed in more detail below. While the crosswalks are not considered part of the official record of Oregon’s SIP, they are proposed for submittal to EPA as reference tools to demonstrate how applicable Oregon Administrative Rules and authorizing Oregon Revised Statutes correspond to and satisfy federal Clean Air Act Section 110(a)(1) and (a)(2) requirements for the purpose of Infrastructure SIP submittals. DEQ has made an effort to include the relevant OARs and corresponding ORSs in the crosswalks for ease of reference, however, it should be noted that the official record of Oregon Administrative Rules that constitute the Federally-approved Oregon State Implementation Plan are listed in subpart MM of 40 CFR part 52. DEQ wishes to improve these crosswalks over time for use in future infrastructure SIP submittals, and welcomes suggestions during the public comment period of this rulemaking as to how these crosswalks could be further improved.

The crosswalks do not include references to Oregon Administrative Rules or Oregon Revised Statutes relating to Clean Air Act Section 110(a)(2)(C) to the extent it refers to nonattainment New Source Review permit programs required under the Section 110(a)(2)(I) of the Clean Air Act. These elements have different due dates for submission and are not required to be submitted as part of an infrastructure SIP.

Additionally, references to Oregon rules and statutes related to the infrastructure SIP requirement under CAA Section 110(a)(2)(D)(i)(I) addressing interstate transport of air pollution have also been omitted from the crosswalks. Section 110(a)(2)(D)(i)(I) prohibits emissions from sources in one state to significantly contribute to nonattainment and interference with maintenance of NAAQS attainment areas in other states. EPA has informed states that Section 110(a)(2)(D)(i)(I) is not a required element of infrastructure SIP submittals at this time in light of the recent decision by the U.S. Court of Appeals for the District of Columbia Circuit vacating the 2011 Cross-State Air Pollution Rule (*see EME Homer City generation, L.P. v. EPA, 696 F .3d 7* (D.C. Cir. 2010)*).* Unless the EME Homer City decision is reversed or otherwise modified by the Supreme Court, states are not required to submit infrastructure SIPs addressing Section 110(a)(2)(D)(i)(I) of the Clean Air Act until the EPA has quantified each state’s contribution to ambient air pollution levels in

## neighboring states. As a result of the EME Homer City decision, EPA has further clarified that it will not issue a Finding of Failure to Submit for Section 110(a)(2)(D)(i)(I) infrastructure SIP requirements at this time. EPA is currently seeking input from states to develop an acceptable approach for evaluating interstate transport of air pollution

## Enter freeform title here

TEXT

| Title | Title |
| --- | --- |
| Subtitle | Subtitle |
| TEXT | TEXT |
| TEXT | TEXT |

|  |
| --- |
| Statement of need |

Select method below that best communicates the need for this proposal using the following required elements.

**METHOD 1**: For proposals that are straight forward

## What need would the proposed rule address? **STOPPED HERE**

States have a legal obligation under the Clean Air Act to amend their administrative rules to adopt new or revised National Ambient Air Quality Standards and incorporate these standards into their State Clean Air Act Implementation Plans. Amendments to Oregon Administrative Rule are needed to incorporate the 1-hour NAAQS and corresponding Significant Impact Levels for nitrogen dioxide (NO2) and sulfur dioxide (SO2) into the Oregon SIP, as well as to revise the rule language for the existing Lead (Pb) standard in OAR 340-200-0020 to make it consistent with the wording of the Pb NAAQS in the Code of Federal Regulations. Incorporating these changes into the Oregon SIP will allow DEQ to submit the revised infrastructure SIP elements for these pollutants to EPA for approval. Once approved, DEQ will have the authority to implement the current NAAQS for NO2, SO2 and Pb in Oregon, in compliance with the Clean Air Act.

How would the proposed rule solve the problem?

The proposed rule amendments will incorporate the primary 1-hour National Ambient Air Quality Standards and corresponding 1-hour Significant Impact Levels for nitrogen dioxide and sulfur dioxide into Oregon rule, as required by the Clean Air Act, as well as revise existing rule language for the lead ambient air quality standard for consistency with federal regulation language. If adopted, these proposed rule amendments will allow DEQ to submit the revised infrastructure SIP requirements to the U.S. Environmental Protection Agency for approval as revisions to the Oregon SIP.

How will DEQ know the problem has been solved?

Once adopted by the EQC, the proposed rule amendments will be filed with the Secretary of State and submitted to the EPA for approval as documentation of the updates made to the Oregon SIP. DEQ will know the problem has been solved when the updated infrastructure elements of Oregon’s SIP are approved by the EPA and published in the Federal Register.

Request for other options

DEQ must adopt the proposed rule amendments to enable DEQ’s implementation of the NAAQS for these pollutants and to allow the EPA to approve the proposed amendments as revisions to the Oregon SIP. Because the proposed rule amendments are necessary to update infrastructure elements of the Oregon SIP by incorporating the revised NAAQS for NO2, SO2 and Pb in order to comply with the requirements of the Clean Air Act, DEQ has not requested input for other options.

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| DEQ welcomes public comments on any aspect of this proposed rulemaking during the public comment period, but specifically requests public comment regarding the completeness of the crosswalks (Tables 4-6). Rules affected, authorities, supporting documents  |

## How would the proposed rule address the need?

TEXT

## How will DEQ know the rule addressed the need?

TEXT

**METHOD 2**: For proposals that address numerous, disparate issues

| Proposed Rule or Topic | Discussion |
| --- | --- |
| Enter rule or topic subtitle |
| What need would the proposed rule address? |  |
| How would the proposed rule address the need?  |  |
| How will DEQ know the rule addressed the need? |  |
| Enter rule or topic subtitle  |
| What need would the proposed rule address? |  |
| How would the proposed rule address the need?  |  |
| How will DEQ know the rule addressed the need? |  |
| Enter rule or topic subtitle |
| What need would the proposed rule address? |  |
| How would the proposed rule address the need?  |  |
| How will DEQ know the rule addressed the need? |  |
| Enter rule or topic title |
| What need would the proposed rule address? |  |
| How would the proposed rule address the need?  |  |
| How will DEQ know the rule addressed the need? |  |

**METHOD 3:** For proposals that address numerous, disparate issues, Make a copy of the table for each issue.

| #. Title |
| --- |
| **OPTIONAL** Enter brief overview of this issue TEXT |
|  What need would the proposed rule address? |  How would the proposed rule address the need? |
| TEXT | TEXT |
| TEXT | TEXT |
| TEXT | TEXT |
| TEXT | TEXT |
| TEXT | TEXT |

## How will DEQ know the rule has addressed the need?

TEXT

**METHOD 4:** For proposals that address numerous, disparate issues

Enter rule or topic title

What need would the proposed rule address?

TEXT

How would the proposed rule address the need?

TEXT

How will DEQ know the rule addressed the need?

TEXT

Enter rule or topic title

What need would the proposed rule address?

TEXT

How would the proposed rule address the need?

TEXT

How will DEQ know the rule addressed the need?

TEXT

Enter rule or topic title

What need would the proposed rule address?

TEXT

How would the proposed rule address the need?

TEXT

How will DEQ know the rule addressed the need?

TEXT

**METHOD 5**: any combination of the methods above.

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| Rules affected, authorities, supporting documents |

## Lead division Program or activity

TEXT TEXT

Review PowerPoint slide to learn about the structure of a rule and definitions of the rule elements [[LINK]](file://deqhq1/Rule_Resources/PowerPoint/0-Rule%20Parts.ppsx).

## Chapter 340 action

|  |  |
| --- | --- |
| Adopt | OAR 340-###-####, 340-###-#### or blank |
| Amend | OAR 340-###-####, 340-###-#### or blank |
| Repeal | OAR 340-###-####, 340-###-#### or blank |
| Renumber | OAR 340-###-####, 340-###-#### or blank  |
| Amend and Renumber | OAR 340-###-#### to 340-###-####, 340-###-#### to 340-###-####where the first rule number is the current rule and the second number is the new number. You must move the entire rule not a partial rule then amend it in its new location. Leave this blank if there no amend an renumber.  |

## Statutory authority

ORS 468.020, 468.065, ###.###<Enter additional statutory authorities here if needed.

## Other authority

ORS###.### < Enter other authorities here, if any.

## Statute implemented

ORS ###.### < Enter here.TEXT

## Legislation

## Enter House Bill or Senate Bill ####, yyyy, if relevant TEXT

Documents relied on for rulemaking [ORS 183.335(2)(b)(C)](http://www.leg.state.or.us/ors/183.html)

List principal documents, reports or studies relied on to develop this proposal. Include the location where the documents are available for public inspection. If the list is extensive, you may identify where the complete list is located.

|  |  |
| --- | --- |
| Document title | Document location |
| Title | Example: web addressExample:DEQ Headquarters811 SW 6th Ave.Portland OR 97204 |
|  |  |

|  |
| --- |
| 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.oregonlaws.org/ors/183.335) |

For proposals that address numerous issues, the core team may use one of the methods under the Statement of Need section to clarify how this section applies to the disparate elements of this rulemaking.

[LINK](file://deqhq1/Rule_Resources/i/4-Fiscal.pdf) to review the Statement of Fiscal Impact Q-Card for this section.

Fiscal and Economic Impact

At a very high level, summarize proposed rules that would or could create an impact.

TEXT

Statement of Cost of Compliance

For each entity below, consider both positive and negative impact in the description of the estimated fiscal and economic impacts and costs to comply with the proposed rules. If there is no impact, describe why there is no impact – it is not enough to say, “There is no fiscal impact.” If unable to estimate or quantify the impact, say something like, “DEQ is unable to quantify the impact at this time because …” then explain why. It is OK to say we do not have available data to make this estimate. Rather than repeat identical impacts, its OK to reference the impact on other entities such as, “For large businesses, the cost to comply with the proposed rules is identical to costs described under small businesses. Do not change the order of the entities in the list below because it aligns with our electronic filing with Secretary of State.

State OPTION: and federal agencies Discuss impacts to DEQ in this section if different from other agencies.

TEXT

Direct Impacts TEXT

Indirect Impacts TEXT

**Local governments**

TEXT

Direct Impacts TEXT

Indirect Impacts TEXT

**Public**

TEXT

Direct Impacts TEXT

Indirect Impacts TEXT

**Large businesses - businesses with more than 50 employees**

TEXT

Direct Impacts TEXT

Indirect Impacts TEXT

**Small businesses – businesses with 50 or fewer employees** [ORS 183.336](http://www.oregonlaws.org/ors/183.336)

Resources: The rules group has the latest Department of Employment data that includes employer name, location, number of employees and North American Industry Classification System Code

TEXT

Direct Impacts TEXT

Indirect Impacts TEXT

|  |  |
| --- | --- |
| 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, these proposed rules could affect 109 small businesses. TEXT**EXAMPLE**: Using recent employment data, DEQ compared the 64 businesses registered with the Clean Fuels Program to current employment data to determine how many people the business employs. Thirty-eight are small businesses. Of those 38, two are Oregon producers of fuels, nine are small importers of finished fuels and 24 are large importers. TEXT |
| 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 feesTEXT |
| 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. TEXT |
| 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 rulemaking notice to all manufacturers registered with Oregon E-Cycles and fee-payers. These groups included small businesses. TEXT |

## Documents relied on for fiscal and economic impact

To meet Administrative Procedures Act requirements, DEQ lists all documents relied on to develop this fiscal section at this location even though you listed them in the *Rules affected, authorities, supporting documents* section above.

|  |  |
| --- | --- |
| Document title | Document location |
| Enter title here TEXT | Enter link or office address listed at bottom of this notice template TEXT |
| WHEN USING EMPLOYMENT DATA – DO NOT PUBLISH ANY EMPLOYMENT LISTINGS. Oregon Department of Employment# quarter 20yy data | Employment Department875 Union Street NESalem OR 97311 |

## Advisory committee

To meet Administrative Procedures Act requirements, DEQ describers stakeholder and public involvement at this location even though it may duplicate advisory committee information described under the *Stakeholder and public involvement* section below.

OPTION 1

DEQ appointed an advisory committee Select phrase afor the sole purpose of making a recommendation on this fiscal and economic impact statement. Alternatively, select phrase b to provide input on the proposed rules and make recommendations on this fiscal and economic impact statement.

To comply with [ORS 183.333](http://www.oregonlaws.org/ors/183.333), DEQ asked for the committee’s recommendations on:

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

The committee reviewed the draft fiscal and economic impact statement and documented its recommendations in the Select phrase **a** Enter title and date of document TEXT or phrase **b** 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. Phrase for small business involvement **a** To meet requirements in [ORS 183.540](http://www.oregonlaws.org/ors/183.540), 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) TEXT. Phrase for small business involvement **b** The committee determined the proposed rules would not have a positive or negative, or a direct or indirect economic impact on small businesses in Oregon.

OPTION 2

DEQ did not appoint an advisory committee. Enter statement describing why DEQ did not convene and advisory committee – be brief.

## Housing cost

**OPTION 1** – impact

To comply with [ORS 183.534](http://www.oregonlaws.org/ors/183.534), DEQ determined the proposed rules Select phrase **a** would have or phrase **b** mayhave or a combination of both phrases 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 – be brief.

**OPTION 2** – no impact

To comply with [ORS 183.534](http://www.oregonlaws.org/ors/183.534), 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 |

"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..." [ORS 183.332](http://www.oregonlaws.org/ors/183.332)

For proposals that address numerous issues, use one of the methods under the Statement of Need section above if needed to clarify numerous and disparate elements of this rulemaking

## Relationship to federal requirements

This section complies with [OAR 340-011-0029](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_011.html) and [ORS 468A.327](http://www.oregonlaws.org/ors/468A.327) to clearly identify the relationship between the proposed rules and applicable federal requirements.

Select the option below that applies to this rulemaking. Some proposals may need multiple options. Delete text under options not used for this rulemaking.

The purpose of the Federal Relationship form is to highlight the substantive differences between DEQ's rules and federal rules, not to explain every minor difference and trivial details such as DEQ using a different word than EPA.

**OPTION 1** – verbatim or by reference

The proposed rules would adopt federal requirement select item from list > Choose an item.. Enter description that includes the name and citation here – be brief. TEXT

**OPTION 2**– substantively equivalent to federal requirements

The proposed rules are not “different from or in addition to federal requirements” and impose stringency equivalent to federal requirements. Enter description that includes the name and citation here – be brief. TEXT

**OPTION 3**– in addition to federal requirements

The proposed rules are “in addition to federal requirements.”

The proposed rules 3a incorporate science applicable to Oregon, 3b incorporate technological advances, 3c protect public health, 3d protect environment, 3e address administrative issues 3feconomic concerns 3g others. Enter additional information about how and why the proposed rules are different from the federal requirements here. TEXT

## What alternatives did DEQ consider if any?

Enter description about why DEQ did not pursue these alternatives. If other parts of this document describes alternatives considered, DOJ advises us to duplicate the information here. TEXT

|  |
| --- |
| Land use  |

“It is the *(Environmental Quality)* Commission's policy to coordinate the Department's *(DEQ’s)* programs, rules and actions that affect land use with local acknowledged plans to the fullest degree possible.” [OAR 340-018-0010](http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_018.html)

For proposals that address numerous issues, you 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.

## Land-use considerations

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

* Statewide planning goals for specific references. Section III, subsection 2 of the DEQ State Agency Coordination Program document identifies the following statewide goal relating to DEQ's authority:

**Goal Title**

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

 6 Air, Water and Land Resources Quality

 11 Public Facilities and Services

 16 Estuarial Resources

 9 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 DEQ will:
* 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 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 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.

OAR 340-000-0000 Optional TEXT

OAR 340-000-0000 Optional TEXT

**2a**DEQ’s statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules. Enter rationale for why it is adequate –be brief. TEXT

**EXAMPLE 1**: OAR 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans.

**EXAMPLE 2**: OAR 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 Select from list > Choose an item. effect on resources, objectives or areas in the planning goals. Enter explanation. TEXT

**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. TEXT

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|  Stakeholder and public involvement |

##  Advisory committee

The discussion of advisory committee activities in this location is to present a complete picture of public involvement in this rulemaking. Please make sure this section does not cause ambiguity with advisory committee information in the Statement of need section.

**OPTION 1**

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

**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 TEXT. The advisory committee provided Describe high-level input using language from charter TEXT. The committee Web page is at: <http://www.oregon.gov/deq/RulesandRegulations/Pages/advisorycom.aspx>.

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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## Meeting notifications

To notify people about advisory committee’s activities, DEQ sent GovDelivery bulletins, a free e-mail subscription service, to the following lists.

* DEQ sent a one-time notice to Name of permittee or other group notified TEXT subscribers to describe how to sign up for advisory committee meeting notices. [ORS 192.640](http://www.oregonlaws.org/ors/192.640).
* People who signed up for advisory committee bulletin.

DEQ also added advisory committee announcements to DEQ’s calendar of public meetings at <http://www.deq.state.or.us/news/events.asp>.

The committee recommended that Summarize recommendation or involvement and link to any formal recommendation. The committee reviewed the fiscal impact statement, specifically the impact on small businesses.

## EQC prior involvement

DEQ shares general rulemaking information with EQC through the monthly Director’s Report. **OPTION 1** DEQ did not present additional information specific to this proposed rule revision. **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 TEXT, **2b** through an informational item on the mmm dd, yyyy TEXT EQC agenda, **2c** and in the Director's Report mmm dd, yyyy TEXT.

## Public notice

DEQ provided notice of the Notice of Proposed Rulemaking **OPTION 1** with Hearing **OPTION 2** without Hearing for this rulemaking. OPTION 1 On mmm dd,yyyy TEXT, DEQ provided notice to: **OPTION 2** DEQ submitted notice to:

* Secretary of State for publication in the Enter month and year here, EXAMPLE August 2013 [*Oregon Bulletin*](http://arcweb.sos.state.or.us/pages/rules/bulletin/past.html) **OPTION** on mmm dd, yyyy TEXT
* EPA **OPTION** on mmm dd, yyyy TEXT.
* The Rulemaking Web page Insert correct link when established <http://www.oregon.gov/deq/RulesandRegulations/Pages/2013/RulemakingActivities.aspx> **OPTION** on mmm dd, yyyy TEXT
* #### TEXT interested parties on the Agency Rulemaking List through GovDelivery **OPTION** on mmm dd, yyyy TEXT
* **OPTION** #### TEXT stakeholders on the Enter other mailing lists here TEXT **OPTION** on mmm dd, yyyy TEXT
* The following key legislators required under [ORS 183.335](http://www.leg.state.or.us/ors/183.html) **OPTION** on mmm dd, yyyy TEXT:

Enter name, title, committee here. TEXT

Enter name, title, committee here. TEXT

Enter name, title, committee here. TEXT

* Members of the advisory committee **OPTION** on mmm dd, yyyy TEXT.
* #### TEXT interested parties describe **OPTION** on mmm dd, yyyy TEXT.
* #### TEXT interested parties through mail by U.S. Postal Service notice
* Enter other notices here **OPTION** on mmm dd, yyyy. TEXT

**OPTION** DEQ provided legal notice(s) in the following newspapers:

**EXAMPLES**

*The Oregonian* Publication date - mmm dd, yyyy TEXT

*East Oregon (Pendleton)* Publication date - mmm dd, yyyy TEXT

*Register Guard (Eugene)* Publication date - mmm dd, yyyy TEXT

*Mail Tribune (Medford)* Publication date - mmm dd, yyyy TEXT

*Klamath Herald & News (Klamath Falls)* Publication date - mmm dd, yyyy TEXT

*La Grande Observer (La Grande)* Publication date - mmm dd, yyyy TEXT

*Daily Journal of Commerce* Publication date - mmm dd, yyyy TEXT

Public hearings

DEQ plans to hold #### TEXT public hearing(s). The table(s) below explains how to participate in the hearing(s).

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 2staff presenter FOR BOTH OPTIONSwill summarize the content of the notice given under [Oregon Revised Statute 183.335](https://www.oregonlegislature.gov/bills_laws/ors/ors183.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 and written comments received at the hearings listed below before completing the draft rules. DEQ will summarize all comments and respond to comments on the Environmental Quality Commission staff report.

See the DEQ office addresses at the end of this document.

Delete the unused lines and hearings from the 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.

Ask Rules Group about an AT&T conference card tools and find other options at:

<http://deq05/intranet/working/ORConnectWebConfSuite.htm>

<http://deq05/intranet/working/conferenceCalls.htm>







Close of public comment period

The comment period will close Day Of Week, mmm dd, yyyy TEXT at ##:## TEXT p.m.

**DEQ Offices**

DEQ Headquarters Office
811 SW 6th Avenue
Portland 97204-1390

DEQ Northwest Region - Portland

2020 SW 4th Avenue, Suite 400
Portland, OR 97201

DEQ Northwest Region - North Coast Branch Office
65 N Highway 101, Suite 202
Warrenton, OR 97146

DEQ Northwest Region - Tillamook

**Tillamook Office**
2310 1st Street, Suite 4
Tillamook, OR 97141

DEQ Western Region - Salem
750 Front St NE, #120
Salem, OR 97301-1039

DEQ Western Region
165 East 7th Avenue, Suite 100
Eugene, OR 97401

EQ Western Region – Coos Bay
381 N Second Street
Coos Bay, OR 97420

DEQ Western Region - Medford

221 Stewart Avenue, Suite 201
Medford, OR 97501

DEQ Eastern Region – The Dalles
Columbia Gorge Community College
400 E Scenic Drive, Building 2
The Dalles, OR 97058

DEQ Eastern Region – La Grande
Regional Solutions Center
Eastern Oregon University
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La Grande, OR 97850

DEQ Eastern Region - Bend
475 NE Bellevue, Suite 110
Bend, OR 97701

DEQ Eastern Region - Pendleton
700 SE Emigrant, #330
Pendleton, OR 97801

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| Formats used in this document Arial 14 bold, Text RGB 0-73-79, Box RGB 226-221-219  |

Subsection title Ariel 11

Level 1 text -- Times Roman 12 Level 2 text

1. Level 2 text

a. Level 3 text

b. Level 3 text

c. Last text

1. Level 2 text
* Level 1 bullet 1
	+ Level 2 bullet
	+ Level 2 bullet
	+ Last bullet
* Level 1 bullet

| Table # (Arial 11)**Table Title – (RGB 0-130-114 Bold Arial 13)** |
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1 Footnote Times Roman 12

**WORD PROBLEM**

The extra column on the right corrects a Word error that prevents vertical alignment in last column of a Word table.

Maggie 5/1/2012

2 Footnote Times Roman 12