



Oregon Department of Environmental Quality
June 15, 2015
Notice of Proposed Rulemaking

Update Oregon State Implementation Plan for Annual Fine Particulate Matter (PM 2.5) Standard; Amend Definition of National Ambient Air Quality Standards to include PM 2.5; and Address the Interstate Transport of Nitrogen Dioxide (NO₂), Sulfur Dioxide (SO₂), Lead (Pb) and Fine Particulate Matter (PM 2.5)

Overview

Oregon must update its Clean Air Act State Implementation Plan to ensure that DEQ has the authority to implement the current National Ambient Air Quality Standards for PM 2.5. These proposed rule amendments update infrastructure elements of Oregon's State Implementation Plan and allow DEQ to request that the U.S. Environmental Protection Agency approve the revised Oregon State Implementation Plan.

Short summary

DEQ 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. After the public notice period, DEQ will submit the proposed rules to EQC for approval. Following the commission's approval, DEQ will submit the proposed rules to EPA for its approval.

The proposed rule amendments incorporate a revised annual National Ambient Air Quality Standard for PM 2.5 and amend the definition of NAAQS to include PM 2.5 in Oregon's administrative rule. These changes will allow Oregon to meet Clean Air Act requirements and request that EPA approve Oregon's revised State Implementation Plan.

The proposal includes the following actions:

- Amend Oregon Administrative Rule 340-200-0040 to update the Oregon Clean Air Act State Implementation plan. If EQC adopts the amendments, the actions proposed in this rulemaking will be incorporated into and made part of the Oregon SIP.
- Amend OAR 340-202-0060(3) to incorporate the annual national primary ambient air quality standard for PM 2.5, adopted by the EPA, Dec.14, 2012, and effective on March 18, 2013.
- Amend OAR 340-250-0030(22) to include PM 2.5 as part of the definition of NAAQS.

In addition to the rule amendments outlined above, a "crosswalk" titled "Infrastructure SIP Submittal for Purposes of Clean Air Act Sections 110(a)(1) and (2) for the 2012 PM 2.5 NAAQS" is included with this proposal. The crosswalk is attached to this notice as Attachment B. The crosswalk identifies existing Oregon Administrative Rules and corresponding Oregon Revised Statutes that demonstrate

DEQ has the necessary authorities in place to implement requirements of Sections 110(a)(1) and (a)(2) of the CAA with respect to the current NAAQS for PM 2.5. They are included for EQC approval and submittal to EPA as documentation that the infrastructure elements of the Oregon SIP meet the requirements of the CAA as they relate to the PM 2.5 NAAQS.

Brief history

Section 110 of the CAA, 42 U.S.C. §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.”

SIPs 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 the 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 CAA as listed in Table 1 below.

Table 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 widespread pollutants from numerous and diverse sources considered harmful to public health and the environment. The Act established two types of 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 Act requires periodic review of the science on which the standards are based and the standards themselves.

SIPs generally establish emission limits or work practice standards to minimize emissions of 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 updated these standards over time. As the standards change, states must submit revisions to the infrastructure elements of their SIPs to reflect these changes.

On Dec. 14, 2012, EPA revised the annual national primary ambient air quality standard for PM 2.5 to protect the public from adverse health effects, as appropriate under CAA Section 109. EPA revised the annual NAAQS for fine particle to 12.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) and retained the 24-hour fine particle standard of 35 $\mu\text{g}/\text{m}^3$ and secondary annual fine particulate standard of 15 $\mu\text{g}/\text{m}^3$.

Main Functions of a State Clean Air Act Implementation Plan

Three overarching activities occur when a NAAQS 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 U.S.C. § 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 CAA section 110. These plans are often called “infrastructure SIPs.” (See CAA Section 110(a)(1); 42 U.S.C. § 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 national ambient air quality standards. (See CAA Section 172; 42 U.S.C. § 7502.)

Table 2: EPA Area Designations for Revised PM 2.5 NAAQS in Oregon

2014 PM 2.5 (Annual)	EPA designated all of Oregon as unclassifiable/attainment in a final rule published on 1/15/15 (80 Federal Register 2206), effective 4/15/2015
2009 PM 2.5 (24 hour)	EPA designated Klamath Falls and Oakridge as nonattainment in a final rule published on 11/13/09 (74 Federal Register 58688), effective 12/14/2009

Air Quality Monitoring

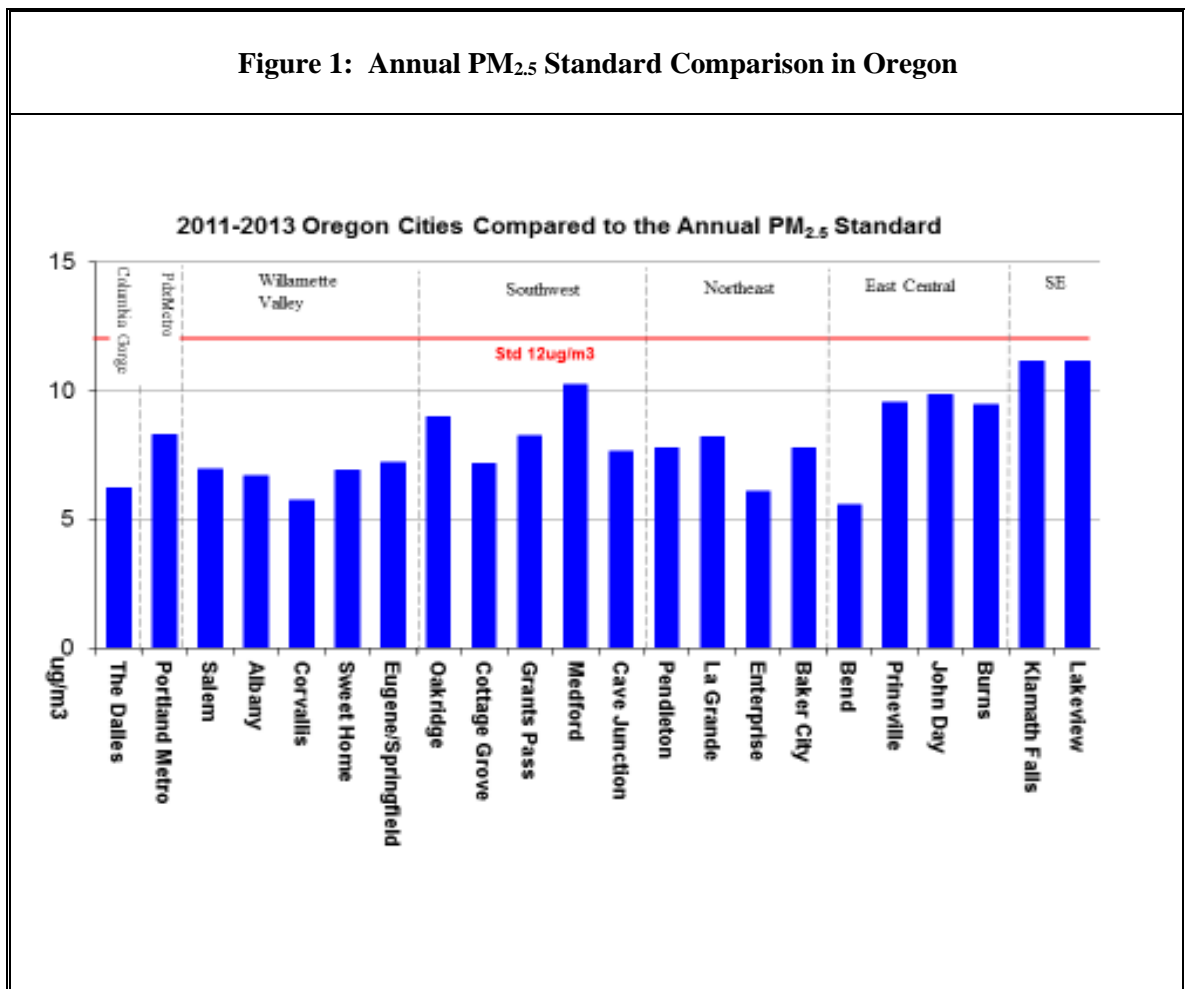
DEQ conducts ambient air quality monitoring as Title 40, Code of Federal Regulations section 58.10 specifies. This rule requires state and local air quality agencies to develop and submit an annual ambient air quality monitoring network plan to EPA by July 1 of each year. The DEQ ambient air quality monitoring network is designed in response to EPA’s National Monitoring Strategy to meet the five basic monitoring objectives federal regulations specify:

- (1) To determine highest concentrations expected to occur in the area covered by the network;
- (2) To determine representative concentrations in areas of high population density;
- (3) To determine the impact of significant sources or source categories on ambient pollution levels;
- (4) To determine general background concentration levels; and
- (5) To determine transport characteristics into and out of airsheds.

DEQ monitors ambient air concentrations of PM 2.5 throughout Oregon. The state meets the annual PM 2.5 standard all across the state and all areas are in attainment. Federal reference monitors are located in:

- Medford
- Grants Pass
- Portland Metro Area (Portland and Hillsboro)
- Eugene/Springfield
- Oakridge
- Cottage Grove
- Klamath Falls
- Lakeview
- Burns
- Prineville

Figure 1: Annual PM_{2.5} Standard Comparison in Oregon



Infrastructure SIP submittals

This proposal addresses the CAA 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 national standards for PM 2.5.

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 annual NAAQS for fine particles (PM_{2.5}) EPA adopted.

Regulated parties

The proposed amendment of Oregon Administrative Rule 340-200-0040 to incorporate the latest NAAQS for PM 2.5 into the State of Oregon Clean Air Act Implementation Plan does not add or remove any parties regulated by DEQ. However, it does reflect meeting a more restrictive test.

Request for other options

DEQ must adopt the proposed rule amendments to allow DEQ's implementation of the NAAQS for this pollutant and to enable DEQ to request that EPA approve the proposed amendments as revisions to the Oregon SIP. The proposed rule amendments are necessary to update infrastructure elements of the Oregon SIP by incorporating the revised national standards for PM 2.5 in order to comply with the requirements of the Clean Air Act. Therefore, DEQ has not requested input for other options.

DEQ welcomes public comments on any aspect of this proposed rulemaking during the public comment period.

Crosswalk Submittal and Interstate Transport

Infrastructure SIP: Other documentation

Crosswalk: 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 (Attachment B). A separate crosswalk is provided for PM 2.5 with this rulemaking proposal, addressing the required infrastructure SIP elements of CAA Section 110(a)(2)(A) - 110(a)(2)(M). DEQ developed the crosswalk in collaboration with EPA Region 10. The crosswalk is 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 annual NAAQS for PM 2.5 as specified in Section 110 of the Clean Air Act. The crosswalk addresses the required infrastructure elements of Section 110(a)(1) and 110(a)(2). While the crosswalk is not considered part of the official record of Oregon’s SIP, it is proposed for submittal to EPA as a reference tool to demonstrate how applicable Oregon Administrative Rules and authorizing Oregon Revised Statutes correspond to and satisfy federal CAA Section 110(a)(1) and (a)(2) requirements for Infrastructure SIP submittals. DEQ has made an effort to include the relevant Oregon Administrative Rules and corresponding Oregon Revised Statutes 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 is listed in subpart MM of 40 C.F.R, part 52.

Interstate Transport: The interstate transport provision in the CAA, section 110(a)(2)(D)(i), (also called “the good neighbor” provision) requires each state to submit a SIP that prohibits emissions that will have certain adverse air quality effects in other states. This section of the SIP is due within three years of the EPA establishing a new or revised NAAQS. DEQ’s State Implementation Plan addresses the interstate transport of PM 2.5. **Note:** The interstate transport submittal also addresses Sulfur Dioxide (SO₂), Nitrogen Dioxide (NO₂) and Lead (Pb) SIP standards updated in 2013. (Attachment C).

Statement of need

What need would the proposed rule address?

States have a legal obligation under the Clean Air Act to amend their administrative rules to adopt new or revised NAAQS and incorporate these standards into their State Clean Air Act Implementation Plans. Amendments to Oregon Administrative Rule are needed to incorporate the annual NAAQS for fine particulate matter (PM 2.5) into the DEQ standard and to revise the definition of NAAQS to incorporate PM 2.5 into the Oregon SIP.

How would the proposed rule solve the problem?

The proposed rule amendments will incorporate the annual NAAQS for PM 2.5, as the CAA requires, as well as revise the Oregon Administrative Rule definition of NAAQS to incorporate PM 2.5 for clarification. 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 EQC adopts them, DEQ will file the proposed rule amendments with the Secretary of State and submit them to EPA for approval as documentation of the updates made to the Oregon SIP. DEQ will know the problem has been solved when EPA approves the updated infrastructure elements of Oregon's SIP and those elements are published in the Federal Register.

Rules affected, authorities, supporting documents

Lead division

Environmental Solutions

Program or activity

Air Planning

Chapter 340 action

Amend

OAR 340-200-0020; OAR 340-202-0060(3); OAR 340-250-0030(22)

Statutory authority

ORS 468 and 468A

Statute implemented

ORS 468A

Documents relied on for rulemaking

Document title	Document location
Infrastructure and Interstate Transport SIPS (EPA)	http://www.epa.gov/airquality/urbanair/sipstatus/reports/or_infrabypoll.html
Interstate Transport Technical Support Documents (EPA)	http://www.regulations.gov/#!documentDetail;D=EPA-R10-OAR-2011-0446-0012
2011 Oregon Title V Emissions Inventory (DEQ)	Document available upon request from DEQ Headquarters, 811 SW 6 th Ave. Portland, OR 97024
TRAACS database query for large businesses (DEQ)	Document available upon request from DEQ Headquarters, 811 SW 6 th Ave. Portland, OR 97024
2013 Oregon Annual Ambient Air Monitoring Network Plan (DEQ)	http://www.deq.state.or.us/aq/forms/2013AQMonNetPlan.pdf

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

ORS 183.335 (2)(b)(E)

Fiscal and Economic Impact

This proposal would have a fiscal impact on DEQ to the extent that resources are necessary to implement the new PM 2.5 NAAQS. DEQ’s current budget includes resources to implement the NAAQS monitoring program as well as conduct planning, technical analysis and monitoring, rulemaking, and community outreach activities as needed if compliance problems with federal NAAQS occur in the future. States are routinely required to incorporate federal revisions to the NAAQS into their rules and subsequently revise their State Implementation Plans to address related infrastructure elements. The CAA requires EPA to revise the national standards for a criteria pollutant when new information is available to suggest a more protective standard is necessary to protect public health and welfare.

There may be a fiscal impact on new and modified industrial sources or other emissions source categories in Oregon if controls or strategies are needed to meet the more stringent standard. If such controls are needed DEQ will do an analysis of the fiscal and economic impacts at that time.

Statement of Cost of Compliance

State and Federal Agencies; Local Governments; Public; Large Businesses

Because the NAAQS are federal requirements under the CAA, DEQ is required to adopt and implement these standards in Oregon. In adopting its amended requirements, the federal government evaluated the potential fiscal impact and that impact has already been imposed when the federal government adopted these rule changes.

Small Businesses

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a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.	DEQ is unable to determine this based on available information.
b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.	DEQ is unable to determine this based on available information.
c. Projected equipment, supplies, labor and increased administration	DEQ is unable to determine this based on available information.

required for small businesses to comply with the proposed rule.	DEQ is unable to determine this based on available information.
d. Describe how DEQ involved small businesses in developing this proposed rule.	DEQ is unable to determine this based on available information.

Documents relied on for fiscal and economic impact

None were necessary.

Advisory committee

DEQ did not appoint an advisory committee for the proposed permanent rule amendments. This rulemaking proposal is necessary to align Oregon Administrative Rules with federally revised NAAQS under the CAA. The proposed changes are required to demonstrate that Oregon DEQ has the appropriate rules, programs and agreements in place to implement the CAA. As such, there was no policy choice to be made which an advisory committee's input could help inform.

Housing cost

To comply with [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.

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](#)

Relationship to federal requirements

This section complies with [OAR 340-011-0029](#) and [ORS 468A.327](#) to clearly identify the relationship between the proposed rules and applicable federal requirements.

The proposed rules would incorporate the federal regulation 40 C.F.R., Section 50.18, national primary ambient air quality standards for PM_{2.5} (particles with an aerodynamic diameter of less than or equal to a nominal 2.5 micrometers).

What alternatives did DEQ consider if any?

DEQ must adopt the proposed rule amendments to allow it to implement national ambient air quality standards for PM 2.5 and to allow the agency to ask EPA to approve the proposed amendments as revisions to the Oregon State Implementation Plan. Because the proposed rule amendments are necessary to update infrastructure elements of the Oregon SIP to comply with CAA requirements, DEQ has not considered other options for this proposal.

Land use

“It is the Environmental Quality Commission's policy to coordinate the DEQ’s programs, rules and actions that affect land use with local acknowledged plans to the fullest degree possible.” [OAR 340-018-0010](#)

[OAR 340-018-0030](#) states EQC rules on land-use coordination. Division 18 requires DEQ to determine whether proposed rules will significantly affect land use.

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 goals relating to DEQ's authority:

Goal	Title
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- | | |
|----|---|
| 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 |

Determination

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 or actions in OAR 340-018-0030 or in the DEQ State Agency Coordination Program.

Stakeholder and public involvement

Advisory committee

DEQ did not convene an advisory committee. This rulemaking proposal makes necessary amendments to Oregon Administrative Rules which are part of the Oregon Clean Air Act State Implementation Plan. The proposed changes correspond with revisions to the NAAQS for PM 2.5 and are required by the Clean Air Act to provide DEQ the authority to implement the current NAAQS for these pollutants.

EQC prior involvement

DEQ shares general rulemaking information with EQC through the annual DEQ Rulemaking Plan review and monthly status report. DEQ did not present additional information specific to this proposed rule revision beyond the annual rulemaking plan and monthly rulemaking report.

Public notice

DEQ provided the Notice of Proposed Rulemaking with Hearing for this rulemaking. DEQ submitted the notice:

- To Secretary of State for publication in the *Oregon Bulletin* on June 15, 2015
- By email to EPA on June 15, 2015
- On June 15, 2015 By posting notice on DEQ's webpage:
[SIP PM 2.5 Standard Update Rulemaking Page](#)
- Mailing approximately 6778 interested parties on the Agency Rulemaking List through GovDelivery on June 15, 2015, and June 17, 2015.
- By email to the following key legislators required under ORS 183.335:
 - State Sen. Chris Edwards, Chair, Senate Committee on Environment and Natural Resources
 - State Rep. Jessica Vega Pederson, Chair, House Committee on Energy and Environment
- To *The Oregonian* on June 15, 2015.
- By linking to the DEQ web page identified above in Facebook and Twitter postings on June 17, 2015

Public hearings

DEQ plans to hold two public hearings. The tables below list the hearing details.

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

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

Date	Thursday, July 16, 2015
Time	5 to 6 p.m.
Location	DEQ Headquarters
Address	811 SW 6 th Ave.
Room	Room EQC B
City	Portland, OR 97024
Presiding Officer	DEQ Staff
Staff Presenter	Nancy Cardwell

Date	Tuesday, August 18, 2015
Time	5 to 6 p.m.
Location	DEQ Headquarters
Address	811 SW 6 th Ave.
Room	Room EQC B
City	Portland, OR 97024
Presiding Officer	DEQ Staff
Staff Presenter	Nancy Cardwell

Close of public comment period

The comment period will close on Thursday, August 20, 2015 at 4 p.m.

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