

Proposed Rulemaking Announcement

Revisions to Oregon Infrastructure State Implementation Plan (SIP)

Background

The Oregon Department of Environmental Quality (DEQ) is proposing to make necessary updates to Oregon air quality administrative rules and the Infrastructure portion of Oregon's Clean Air Act State Implementation Plan (SIP) for ozone, lead and particulate matter. The SIP "infrastructure" elements fulfill sections 110(a)(1) and (2) of the Clean Air Act. A SIP consists of narrative, rules, technical documentation, and agreements that an individual state will use to comply with the Clean Air Act. The infrastructure portion of the SIP ensures that DEQ has the capacity to address environmental problems and implement the Federal Clean Air Act. The U.S. Environmental Protection Agency has requested that States update their SIPs as soon as possible to reflect changes in the National Ambient Air Quality Standards.

Why are these rule changes needed?

DEQ and the Environmental Protection Agency (EPA) recently reviewed the adequacy of Oregon's SIP infrastructure for ozone and particulate matter (PM). This two step review process evaluates (1) whether the SIP contains all necessary infrastructure elements, and (2) whether those elements adequately address air pollution as required by the Clean Air Act. In 2009 DEQ and EPA reviewed the elements of Oregon's infrastructure SIP. The infrastructure SIP ensures that the DEQ has the ability to implement requirements of the Clean Air Act. EPA has requested that the DEQ make the proposed rule updates to the infrastructure SIP in relation to the new PM_{2.5} and ozone standards.

What is the objective of this rulemaking?

This rulemaking proposes to update several rules as necessary to meet requirements of the Clean Air Act for Oregon's SIP infrastructure. Revisions to Oregon rules and Oregon's SIP infrastructure include:

- Recently adopted federal changes to National Ambient Air Quality Standards (NAAQS) for fine particulate (PM_{2.5}), ozone and lead.
- Oregon's evaluation of interstate transport of PM_{2.5} and ozone.
- Incorporating into the SIP the definition of PM_{2.5}, currently in Oregon rule.
- PM_{2.5} non-attainment area boundary descriptions for the cities of Klamath Falls and Oakridge.
- New PM_{2.5} threshold (Significant Harm Level) for triggering air quality Warnings, Alerts, and Emergencies.
- Revision to the definition of Volatile Organic Compounds (VOC), to exempt Dimethyl Carbonate as a VOC, consistent with recent federal actions.

The objective of this rulemaking will be complete when the above changes have been adopted by the Environmental Quality Commission and approved by EPA.

Who may be affected?

Proposed updates to Oregon air quality rules and Oregon's SIP infrastructure will not affect the public, business, or other governmental agencies. These changes simply demonstrate to EPA that Oregon's SIP meets infrastructure requirements of the Clean Air Act. It should be noted however, that the EPA is working to finalize federal implementation rules for fine particulate (PM_{2.5}). Once finalized, DEQ will need to conduct additional rulemaking to incorporate new federal requirements into Oregon rules and Oregon's SIP. Any impacts of those federal requirements will be assessed at that time.

This rulemaking also incorporates into state rule PM_{2.5} nonattainment area boundary descriptions for Klamath Falls and Oakridge as established by EPA, and does not affect the nonattainment status of these



State of Oregon
Department of
Environmental
Quality

Air Quality Division
811 SW 6th Avenue
Portland, OR 97204
Phone: (503) 229-5035
(800) 452-4011
Fax: (503) 229-5675
Contact: [Carrie Capp](mailto:Carrie.Capp@deq.state.or.us)
siprevisions@deq.state.or.us
www.oregon.gov/DEQ/

The Department and the EQC have the statutory authority to address this issue under ORS 468.020. These rules implement ORS 468A.025



communities (which are already designated as not attaining PM_{2.5} standards).

The creation of new PM_{2.5} thresholds for calling air pollution Warnings, Alerts, or Emergencies will need to be incorporated into DEQ's outreach to communities in the event those communities are impacted by extreme levels of particulate air pollution, such as forest fire smoke. These thresholds, known as Significant Harm Levels (or SHLs), are required under Section 110(a)(2)(G) of the Clean Air Act, and were established in section 51.16 of the Code of Federal Register under the Prevention of Air Pollution Emergency Episodes program. The SHL is set at a level that represents imminent and substantial endangerment to public health and is set at a level much higher than the National Ambient Air Quality Standards (NAAQS), which are designed to prevent levels of air pollution which are harmful to human health but do not cause immediate danger.

In February 2009, the US EPA added dimethyl carbonate to the list of compounds which are excluded from the definition of Volatile Organic Compounds (VOCs) on the basis that these compounds make a negligible contribution to tropospheric ozone formation. It is EPA's policy to exclude organic compounds with a negligible level of reactivity from the regulatory definition of VOC, to focus VOC control efforts on compounds that significantly increase ozone concentrations. The proposed rule change to delist dimethyl carbonate from Oregon's list of regulated VOCs will make state law consistent with federal regulation.

How was this proposal developed?

EPA has asked that all states update their SIP infrastructure for ozone and PM. If Oregon does not take action to update its SIP, EPA would eventually have to amend Oregon's SIP through federal action.

Copies of the documents relied upon in the development of this rulemaking proposal can be reviewed at DEQ's office at 811

S.W. 6th Avenue, Portland, Oregon. Please contact Carrie Capp (503-229-5035) for times when the documents are available for review.

Additional materials available

- [Proposed Rule changes](#)
- [Statement of Need and Fiscal Impact](#)
- [Land Use Evaluation Statement](#)
- [Relationship to Federal Requirements](#)

The above documents provide additional information related to this proposed rulemaking and can be viewed at [Proposed Rule Revisions](#).
(www.deq.state.or.us/regulations/proposedrules.htm)

How to Comment

Comments on the proposed rulemaking may be submitted in writing via mail, fax or e-mail at any time prior to the comment deadline of 5p.m., December 22, 2009. Written and oral comments can be submitted during any of the public hearings specified below. It is not necessary to attend a hearing in order to comment. Written comments received prior to the deadline are treated equally with oral comments.

Written comments may be mailed to Carrie Capp, Oregon DEQ, Air Quality Division, 811 SW 6th Ave. Portland, OR 97207, 503-229-5035, or toll-free in Oregon at 1-800-452-4011

Comments may be faxed to Carrie Capp at 503-229-5675, or e-mailed to: siprevisions@deq.state.or.us

E-mail comments will be acknowledged immediately. Comments and attachments are limited to 10 MB. If you do not receive an automatic response, or your comments and attachments will exceed this limit, please contact the DEQ staff listed above. If there is a delay between servers, e-mails may not be received before the deadline.

Public hearings

A public hearing will be held to present this rulemaking proposal. The hearing will begin with a brief overview of the proposed rule changes, followed by the opportunity for members of the public to provide oral and written comment. All comments will be recorded and reviewed by DEQ.

- Portland, 6 p.m., December 18, 2009, DEQ Headquarters, EQC A, 10th Floor 811 SW 6th Ave. Portland, OR 97204. Presiding Officer: Carrie Capp.

Comment deadline is December 22, 2009.

All comments are due to DEQ by 5 p.m., December 22, 2009. DEQ cannot consider comments from any party **received** after the deadline for public comment.

How will rules be adopted?

DEQ will prepare a response to all comments received during the public hearing and comment period and may modify the proposed rules based on the comments received. DEQ plans to recommend that the Oregon Environmental Quality Commission (EQC) adopt the rules at the April 2010 EQC meeting. DEQ will notify persons of the time and place for final EQC action if they submit comments during the hearing or comment period or request to be placed on DEQ's mailing list for this rulemaking.

Alternative formats/accommodations

Please notify DEQ of any special physical or language accommodations needed for the hearings as far in advance as possible.

Alternative formats (Braille, large type) of this document can be made available.

Contact DEQ's Office of Communications & Outreach, Portland, at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696.