

# Proposed Rulemaking Announcement

## Adoption of Federal Air Quality Regulations

### Background

To meet the requirements of the Clean Air Act, the Environmental Protection Agency identified 33 hazardous air pollutants, that when emitted by small and mid-sized commercial, institutional and industrial facilities, also known as “non-major” or “area” sources, pose the greatest threat to public health in urban areas.

Visit EPA’s website to view a list of these pollutants:

[www.epa.gov/ttn/atw/area/list33.html](http://www.epa.gov/ttn/atw/area/list33.html)

The Clean Air Act requires EPA to regulate enough area sources to ensure that 90 percent of the emissions of the 33 hazardous air pollutants are subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP).

The Clean Air Act also requires EPA to establish New Source Performance Standards (NSPS) for categories of sources that cause or contribute significantly to air pollution that endangers public health.

Over the last few years, EPA has adopted or amended numerous NESHAPs and NSPSs.

### What is the objective of this rulemaking?

The objectives of this rulemaking are to protect public health and ensure that Oregon implements federal programs that regulate hazardous air pollutants and new sources. The objective of this rulemaking is also to improve Oregon’s implementation of these programs. These objectives will be accomplished when reduction measures are in place and businesses demonstrate compliance.

### What does this rulemaking propose?

If adopted, this proposal would:

#### Area Source NESHAPs

- Adopt by reference federal area source standards regulating aluminum, copper, and other nonferrous foundries; ferroalloy production; metal fabrication and finishing; paint stripping and miscellaneous surface coating operations; and plating and polishing operations.

#### Air Contaminant Discharge Permit (ACDP)

- Add the new area source NESHAPs to the list of business categories (see pages 10-13 of Attachment D) eligible to obtain a simple or general ACDP. Without this change,

these sources would automatically be subject to a standard ACDP.

- Add a new general ACDP annual fee class.
- Assign each new general ACDP to an annual fee class.
- Adopt a requirement that any dry cleaner using perchloroethylene obtain an ACDP, unless the dry cleaner registers with DEQ. Previously only noncompliant dry cleaners were required to obtain an ACDP.

#### General ACDP Issuance

- Change the requirement that the Environmental Quality Commission, DEQ’s policy and rulemaking board, issue general ACDPs by rule to instead allow DEQ to issue general ACDPs by order.

#### General ACDP Attachments

- Allow businesses eligible for multiple general ACDPs to be assigned to one general ACDP and one or more general ACDP attachments.
- Adopt an annual fee for general ACDP attachments.

#### Registration as an Alternative to Permitting

- Allow auto body shops and dry cleaners that voluntarily participate in an environmental certification program to register as an alternative to permitting.
- Adopt annual fees for registration.

#### Federal Air Quality Regulations

- Update previously adopted NESHAP and NSPS rules to keep them consistent with federal amendments.

#### Gasoline Dispensing Facility Rules

- Correct referencing errors and add clarity to the “topping off” ban.

#### Utility Mercury Rule

- Modify Oregon’s utility mercury rule by adding material sampling provisions vacated by a federal court ruling, correcting errors, and allowing DEQ to approve alternative calibration gases.

DEQ will submit the gasoline dispensing, permitting and registration rules to EPA as a revision to the State Implementation Plan, which is a requirement of the Clean Air Act. DEQ will submit the NSPS and NESHAP changes to EPA for delegation approval.

ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310 authorize the



State of Oregon  
Department of  
Environmental  
Quality

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DEQ and the EQC have the statutory authority to address this issue under ORS 468.020, 468A.050 and 468A.310. These rules implement ORS 468A.025.

Environmental Quality Commission to adopt the proposed rules.

### **Why are rule changes needed?**

Adopting new and amended federal NSPS and NESHAP standards align Oregon's rules with EPA's so that DEQ can keep federal delegation and implement these regulations. This benefits industry through quicker approval of applicability determination requests and alternative compliance demonstration requests. The public will also benefit from improved air quality resulting from DEQ's implementation of these regulations.

General ACDP adoption is currently done through the rulemaking process. This process makes it difficult and time consuming to make corrections or other changes to general ACDPs. This rulemaking would still require the Commission to adopt a general ACDP source category by rule, but would allow general ACDP issuance by DEQ order following a public comment period, as is done for other permit types.

With the adoption of numerous area source NESHAPs, it is difficult to include all requirements that apply to a category of businesses into a single general ACDP. It would also be burdensome to issue a single business multiple permits. This rulemaking would allow a business to be assigned to one general ACDP and one or more general ACDP attachments.

Affected businesses would be charged the full annual fee for one general ACDP and a reduced annual fee for each general ACDP attachment.

Oregon's Small Business Compliance Advisory Panel asked DEQ to reduce the administrative burden of implementing the new area source NESHAPs. The panel recommended that DEQ establish a registration program as an alternative to permitting for small businesses that voluntarily participate in an environmental certification program. This rulemaking would allow DEQ to exempt certified businesses from permitting if they register with DEQ and pay annual registration fees (see page 3 of Attachment D).

Registration would ensure that businesses comply with the new area source NESHAPs and encourage them to adopt sustainable practices to achieve greater environmental benefits. The proposed registration fee would pay DEQ's cost for developing and implementing the registration program and ensuring compliance with the applicable standards.

### **Who may be affected?**

#### Area Source NESHAPs

The following categories will be affected by the new area source NESHAPs: aluminum, copper, and other nonferrous foundries; autobody refinishing; chemical manufacturing; ferroalloy production; metal fabrication and finishing; paint stripping; surface coating of metal and/or plastic parts and products; and plating and polishing.

#### Area Source NESHAP Permitting

The requirement that businesses affected by a new area source NESHAP obtain a simple or general ACDP would affect the categories above.

#### General ACDP Attachments

The ability to be assigned to a general ACDP and general ACDP attachments would mostly apply to businesses that are subject to multiple area source NESHAPs.

#### Registration as an Alternative to Permitting

DEQ would allow registration as an alternative to permitting for auto body shops or dry cleaners certified through an approved environmental certification program.

#### Federal Air Quality Regulations

Several NESHAPs and NSPSs have been amended since July 1, 2008. These amendments affect cellulose production; chemical manufacturing; coating manufacturing; combustion turbines; dry cleaning; gasoline distribution; hazardous waste combustion; internal combustion engines; mineral processing plants; natural gas transmission and storage; oil and natural gas production; organic liquid distribution; petroleum refineries; pharmaceutical production; polymer and resin manufacturing; publicly owned treatment works; semiconductor manufacturing; site remediation; steam generating units; and steelmaking facilities. For a complete list of affected source categories, see Attachments E and F of this rule package.

#### Gasoline Dispensing Facility Rules

The changes to the gasoline dispensing facility rules would affect any business that dispenses gasoline into a motor vehicle.

#### Utility Mercury Rule

Oregon currently has one coal-fired power plant located in Boardman. That plant is affected by this rule.

### **How was this proposal developed?**

DEQ relied primarily on the Federal Register, the Code of Federal Regulations, and the Oregon Revised Statutes in developing this rulemaking proposal.



Copies of the documents relied upon in the development of this rulemaking proposal can be reviewed at the DEQ's office at 811 S.W. 6th Avenue, Portland, Oregon. Please contact Jerry Ebersole for times when the documents are available for review.

### **Where can I find technical information related to this rulemaking?**

The following documents are available online:

- [Proposed rule changes](#)
- [Relationship to Federal Requirements](#)
- [Land Use Evaluation Statement](#)
- [Statement of Need and Fiscal Impact](#)
- [New and Amended NESHAPs](#)
- [New and Amended NSPSs](#)

These documents provide additional information related to this rulemaking and can be viewed at: <http://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 anytime prior to the comment deadline of 5 p.m., August 26, 2009. Comments may be submitted during 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 Jerry Ebersole, Oregon DEQ, Air Quality Division, 811 SW Sixth Avenue, Portland, Oregon 97204, (503) 229-6974, or toll-free in Oregon at 1-800-452-4011.

Comments may be faxed to Jerry Ebersole at (503) 229-5675 or emailed to [federalrule@deq.state.or.us](mailto:federalrule@deq.state.or.us) (E-mail comments will be acknowledged immediately. If there is a delay between servers, e-mails may not be received before the deadline.)

### **Public hearings**

Public hearings will be held in Bend, Medford, and Portland in August. The hearings 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.

August 17, 2009  
DEQ - Bend Regional Office  
Conference Room  
475 NE Bellevue Dr., Suite 110  
Bend, OR 97701

6:00 p.m.

August 18, 2009  
DEQ - Medford Regional Office  
Conference Room  
221 Stewart Ave, Suite 201  
Medford, OR 97501  
6:00 p.m.

August 20, 2009  
DEQ - Headquarters Office  
Conference Room EQC-A  
811 SW 6th Avenue  
Portland, OR 97204  
6:00 p.m.

### **Comment deadline is August 26, 2009**

All comments are due to DEQ by 5 p.m., August 26, 2009. DEQ cannot consider comments from any party received after the deadline for public comment.

### **How will the rules be adopted?**

DEQ will prepare a response to comments received during the public hearing and comment period and may modify the proposed rules. DEQ plans to recommend that the Oregon Environmental Quality Commission (EQC) adopt the rules at the December 10-11, 2009 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 of this document can be made available by contacting DEQ's Office of Communications & Outreach, Portland, at (503) 229-5317.

