Oregon Air Quality Permitting Updates 2022: Rulemaking Advisory Committee Meeting 1

Dec. 16, 2021
1 p.m. - 4 p.m.

For Zoom technical issues, email bvaldez@kearnswest.com

Rulemaking Resources

Rulemaking webpage:

https://www.oregon.gov/deq/rulemaking/Pages/aqpermits2022.aspx

Rulemaking contact: Jill Inahara

jill.inahara@deq.state.or.us

Rulemaking notifications: Subscribe to DEQ

https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic_id=ORDEQ_244

DEQ and Kearns & West

Oregon DEQ

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Environmental Engineer

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AQ Division Administrator

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Air Quality Planner

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AQ OPS Manager

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Air Communications Specialist

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Kearns & West

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Associate

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RAC #1 Agenda

Time	Topic
1 p.m.	Welcome
1:10 p.m.	**Agenda overview and participation guidelines**
1:15 p.m.	Convening and Advisory Committee Introductions
1:35 p.m.	Review rulemaking schedule
1:45 p.m.	Notice of Intent to Construct
3:05 p.m.	Break
3:15 p.m.	Technical clarifications, including Typos & Non-technical clarifications
3:45 p.m.	Next steps
3:50 p.m.	Public input
4 p.m.	Adjourn Meeting

Webinar Participation Tips

Thank you for joining us today!

- Please join audio by either phone or computer, not both.
- RAC members: Stay on mute when not speaking, and please join us on video if able.
- RAC members are joined as panelists and members of public as attendees.
- For discussion and comments, use “Raise Hand” button to get in the queue; if joined by phone press *9.
- Say your name and affiliation before speaking.
- Move around and take care of yourself as needed!
- For Zoom technical issues, email bvaldez@kearnswest.com.

Participation Guidelines

- Honor the agenda and strive to stay on topic
- Provide a balance of speaking time
- Bring concerns and ideas up for discussion at the earliest point in the process
- Address issues and questions – focus on substance and avoid personal attacks
- Seek to learn and understand each other's perspective
- Listen and speak with respect

Role of RAC members

This is an advisory committee and discussions will be used by DEQ to inform its draft rules.

- Prepare for and set aside time for the meetings and review materials in advance.
- Stay focused on the specific agenda topics.
- Provide constructive comments.
- Treat everyone and his/her/their opinions with respect.
- Allow one person to speak at a time.

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RAC Member Introductions

- Name
- Affiliation or interest you represent
- What inspires you to do work around air quality regulations?

(Up to 2 minutes each)

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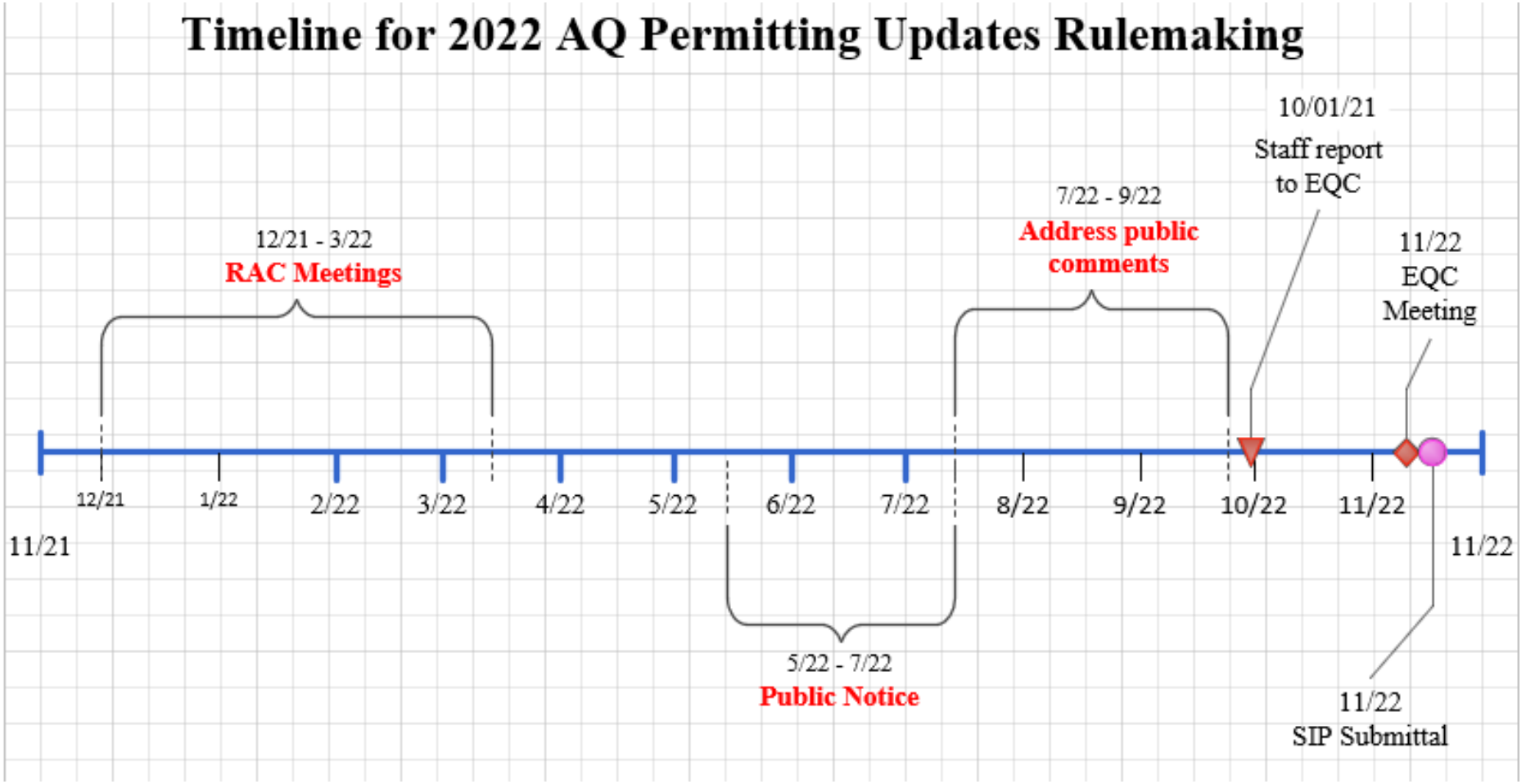
Rulemaking Timeline



RAC Meetings – Option 1

- **RAC #1** (3 hours)
  - Notice of Intent to Construct, technical clarifications, and typos & non-technical clarifications
- **RAC #2** (2-3 hours)
  - Generic Plant Site Emission Limits and change permit type
- **RAC #3** (2-3 hours)
  - Short-term activity permit, no expirations, National Ambient Air Quality Standards clarifications, and petition for General permits
- **RAC #4** (4 hours)
  - Outstanding issues and fiscal impact

RAC Meetings – Option 2

- **RAC #1** (3 hours)
  - Notice of Intent to Construct, technical clarifications, and typos & non-technical clarifications
- **RAC #2** (4-5 hours)
  - Generic Plant Site Emission Limits, change permit type, short-term activity permit, no expirations, National Ambient Air Quality Standards clarifications, no excess emissions for 48 hours, and petition for general permits
- **RAC #3** (4 hours)
  - Outstanding issues and fiscal impact

DEQ Air Quality Mission

DEQ's mission is to be a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

Commitment to Environmental Justice

DEQ is committed to the principles of environmental justice and to ensuring that the agency's actions – including permitting, cleanup, policy and planning, outreach and education, and compliance and enforcement – address the interests of Oregon communities, especially BIPOC, low-income and other traditionally underrepresented communities.

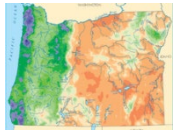
Goals of Rulemaking

- Improve and strengthen our permitting program
- Enhance community protection, and incorporate Environmental Justice
- Increase permitting issuance efficiency
- Increase regulatory certainty

Why now?

- Notice of Intent to Construct (NC) issues with certain sources are resource intensive
- Begin to address Environmental Justice concerns/impacts
- Ensure consistency across state

Purpose of rulemaking

- Protect air quality, addressing Environmental Justice concerns/impacts
- Enhance and improve permitting program
- Address rule deficiencies identified in the Secretary of State backlog audit
- 
  Improve program consistency across the state

Three categories of change

Basic Air Contaminant Discharge Permits [AKA: BS]

Simplest permits, smallest emitters

Rock Crushers, Small Crematories, Some Auto Body Shops

General Air Contaminant Discharge Permits [AKA: GP]

Simpler permits, small emitters

Gasoline stations, Dry Cleaners, Coffee Roasters, Grain Elevators

Simple Air Contaminant Discharge Permits [AKA: SI]

Simple to semi-complex permits, small emitters

Data Centers, Metal Foundries, Wastewater Treatment Plants, Printers, Publishers

Standard Air Contaminant Discharge Permits [AKA: ST]

Complex permits, medium emitters

Particleboard, Plywood, Fuel Terminals, Semiconductor, Bakeries

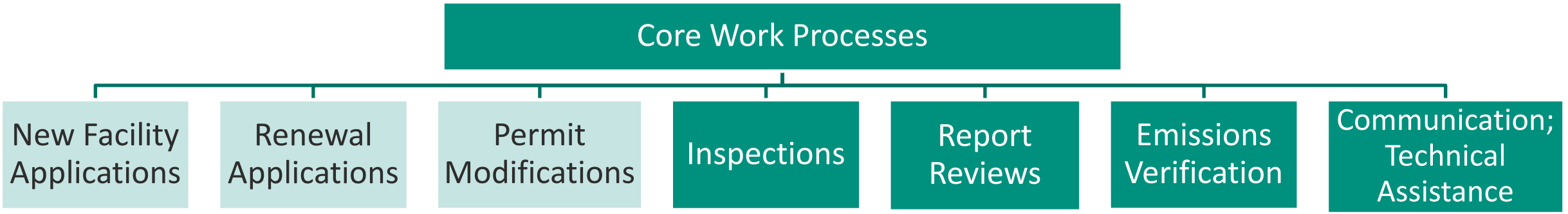
Title V Permits [AKA: TV]

Most complex permits, largest emitters

Electricity Generation, Landfills, Fiberglass, Pulp and Paper Mills, Steel Mills

Program Metrics and Deliverables

Permit Type	Number of Permits	Issuance Timeliness Guidelines	Permit Term	Compliance Inspection Frequency
Basic ACDP*	185	30 days	Up to 10 years	Every 10 years
General ACDP	1,947	30 days	Up to 10 years	Every 5-10 years
Simple ACDP	150	120 days	Up to 5 years	Every 4 years
Standard ACDP	141	180 days	Up to 5 years	Every 3-5 years
Title V	100	365 days	Up to 5 years	Every 2 years



*ACDP = Air Contaminant Discharge Permit

Light shaded boxes in Core Work will be affected by proposed rule changes.

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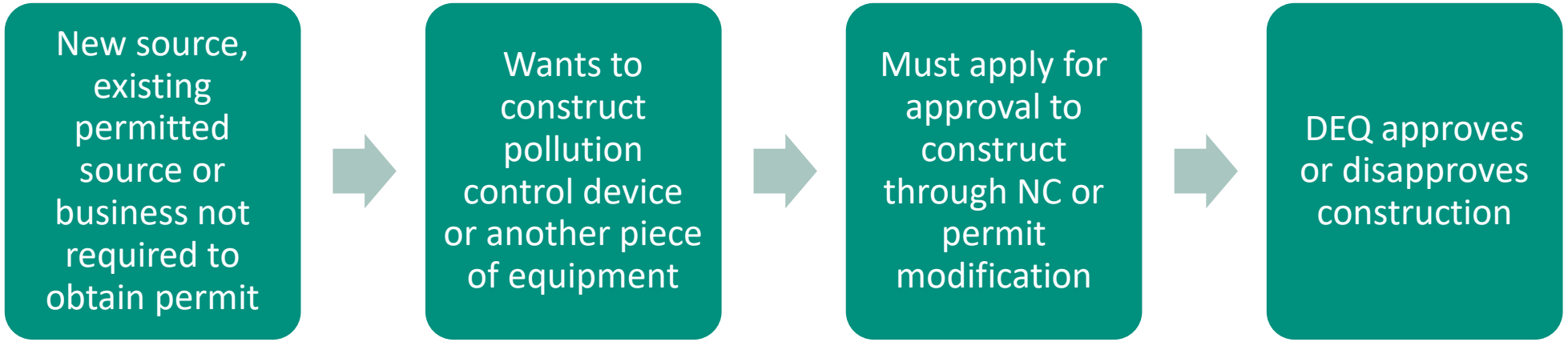
Clarify Notice of Intent to Construct* rules



* Required for **any** construction or change in operation

Existing Four Types of NC

Type 1	Type 2	Type 3	Type 4
No permit modification	No permit modification	Permit modification	Permit modification
Equipment ≤ de minimis emissions but no increase over permitted emissions	Equipment ≤ “significant” emissions but no increase over permitted emissions	Increases permitted emissions but not “significantly”	Increases permitted emissions “significantly” (New Source Review)
10-day default approval (rule)	60-day default approval (statute)	Less than one year to approve	Takes up to one year to approve
No public notice	No public notice	Public notice	Upfront info meeting + public notice
Add baghouse; modify feed chute; upgrade computer controls	Add thermal oxidizer; add small natural boiler	Add large natural gas boiler; replace large paint line	Major expansion that doubles production

Type 1 NC

Type 1
No permit modification
Equipment ≤ de minimis emissions but no increase over permitted emissions
10-day default approval (rule)
No public notice
Add baghouse; modify feed chute; upgrade computer controls

“de minimis emission level" means the level for the regulated pollutants listed below:

(a) Greenhouse Gases (CO2e) = 2,756 tons per year.
(b) CO = 1 ton per year.
(c) NOx = 1 ton per year.
(d) SO2 = 1 ton per year.
(e) VOC = 1 ton per year.
(f) PM = 1 ton per year.
(g) PM10 (except Medford AQMA) = 1 ton per year.
(h) PM10 (Medford AQMA) = 0.5 ton per year and 5.0 pounds/day.
(i) Direct PM2.5 = 1 ton per year.
.....

Type 2 NC

Type 1	Type 2
No permit modification	No permit modification
Equipment ≤ de minimis emissions but no increase over permitted emissions	Equipment ≤ “significant” emissions but no increase over permitted emissions
10-day default approval (rule)	60-day default approval (statute)
No public notice	No public notice
Add baghouse; modify feed chute; upgrade computer controls	Add thermal oxidizer; add small natural boiler

"Significant emission rate" or "SER," except as provided in subsections (v) and (w), means an emission rate equal to or greater than the rates specified for the regulated pollutants below:

(a) Greenhouse gases (CO2e) = 75,000 tons per year
(b) Carbon monoxide = 100 tons per year except in a serious nonattainment area = 50 tons per year, provided DEQ has determined that stationary sources contribute significantly to carbon monoxide levels in that area.
(c) Nitrogen oxides (NOX) = 40 tons per year.
(d) Particulate matter = 25 tons per year.
(e) PM10 = 15 tons per year.
(f) Direct PM2.5 = 10 tons per year.
(g) PM2.5 precursors (SO2 or NOx) = 40 tons per year.
(h) Sulfur dioxide (SO2) = 40 tons per year.
(i) Ozone precursors (VOC or NOx) = 40 tons per year
....

Type 3 NC (permit mod)

Type 1	Type 2	Type 3
No permit modification	No permit modification	Permit modification
Equipment ≤ de minimis emissions but no increase over permitted emissions	Equipment ≤ “significant” emissions but no increase over permitted emissions	Increases permitted emissions but not “significantly”
10-day default approval (rule)	60-day default approval (statute)	Less than one year to approve
No public notice	No public notice	Public notice
Add baghouse; modify feed chute; upgrade computer controls	Add thermal oxidizer; add small natural boiler	Add large natural gas boiler; replace large paint line

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(h) Sulfur dioxide (SO2) = 40 tons per year.

(i) Ozone precursors (VOC or NOx) = 40 tons per year

....

Type 4 NC (permit)

Type 1	Type 2	Type 3	Type 4
No permit modification	No permit modification	Permit modification	Permit modification
Equipment ≤ de minimis emissions but no increase over permitted emissions	Equipment ≤ "significant" emissions but no increase over permitted emissions	Increases permitted emissions but not "significantly"	Increases permitted emissions "significantly" (New Source Review)
10-day default approval (rule)	60-day default approval (statute)	Less than one year to approve	Takes up to one year to approve
No public notice	No public notice	Public notice	Upfront info meeting + public notice
Add baghouse; modify feed chute; upgrade computer controls	Add thermal oxidizer; add small natural boiler	Add large natural gas boiler; replace large paint line	Major expansion that doubles production

Average number of applications received/year (2000-2021)

93	**72**	**2**	**1**

NC Technical Clarifications

ISSUE	SOLUTION
There is confusion on whether the emissions included in the NC rules (Types 1, 2 & 3) are actual emissions or potential emissions, and if the rules apply to an emissions unit or the whole source.	Clarify that the emissions are **potential to emit** and that they apply to individual emissions unit.

NC Technical Clarifications

ISSUE	SOLUTION
There is confusion on whether the emissions included in the NC rules (Types 1, 2 & 3) are actual emissions or potential emissions and if the rules apply to an emissions unit or the whole source.	Clarify that the emissions are **potential to emit** and that they apply to individual emissions unit.
There is no provision for DEQ to request more information for Type 2 NC applications before the 60-day default approval.	Clarify that DEQ may ask for needed information by date certain and may reject application if information not received.

Proposed Policy Changes - Type 1 NCs

Eliminate 10-day default approval and replace Type 1 NCs with “notice and go” (no approval needed):

- Not enough time to review the application
- Some construction doesn’t qualify as a Type 1 change but can be default approved
- Would not delay construction of equipment that DEQ does not want to review

Proposed Policy Changes – Type 1 NCs

Eliminate 10-day default approval and replace Type 1 NCs with “notice and go” (no approval needed):

- Would this change help streamline the process?

Proposed Policy Changes – Type 1 NCs

Eliminate 10-day default approval and replace Type 1 NCs with “notice and go” (no approval needed):

- Would this change help streamline the process?
- What are concerns about this policy change?

Proposed Policy Changes – Type 1 NCs

Eliminate 10-day default approval and replace Type 1 NCs with “notice and go” (no approval needed):

- Would this change help streamline the process?
- What are concerns about this policy change?
- What types of equipment* should be on this list and why? (submit written list)

*Equipment approved under new Type 1 NC cannot increase Cleaner Air Oregon risk

Proposed Policy Changes – Type 2/3 NCs

Require technology review and modeling for equipment with emissions less than the Significant Emission Rate because:

- Significant Emission Rate were established in 1980, before 1-hour National Ambient Air Quality Standards for NO_2 and SO_2 were set and may not be protective of the NAAQS.
- Ensure that the National Ambient Air Quality Standards are protected.
- May require emission reductions to address EJ issues/concerns

Proposed Policy Changes – Type 2/3 NCs

Minor New Source Review

Notice of Intent to Construct	Minor New Source Review	New Source Review/Prevention of Significant Deterioration
• No increase in emissions > PSEL • No control technology analysis • No AQ modeling analysis • No public notice	• Emissions threshold? • Control technology analysis • AQ modeling analysis • Public notice?	• Increase PSEL ≥ Significant Emission Rate • Control technology analysis • AQ modeling analysis • Public notice

PSEL = Plant Site Emission Limit

Proposed Policy Changes – Type 2/3 NCs

Require technology review and modeling for equipment with emissions less than the Significant Emission Rate :

- What are concerns about this policy change?

Proposed Policy Changes – Type 2/3 NCs

Require technology review and modeling for equipment with emissions less than the Significant Emission Rate :

- What are concerns about this policy change?
- What level of emissions should trigger these requirements?

Proposed Policy Changes – expiration dates

Add expiration dates to NCs and construction approvals:

- Currently there are no expiration dates.
- Instance when construction hasn't commenced in over three years.
- Instance was when construction was complete but was not commissioned for over **eight** years.

Proposed Policy Changes – expiration dates

Add expiration dates to NCs and construction approvals:

- What are challenges with having expiration dates?

Proposed Policy Changes – expiration dates

Add expiration dates to NCs and construction approvals:

- What are challenges with having expiration dates?
- What would a reasonable expiration date be?

Proposed Policy Changes – expiration dates

Add expiration dates to NCs and construction approvals:

- What are challenges with having expiration dates?
- What would a reasonable expiration date be?
- Should extensions be allowed?


Pause
Break

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Three categories of change

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Examples of Technical Clarifications

ISSUE	SOLUTION
Definition of particulate matter requires measurement by reference test method, difficult for fugitive emissions.	Add another definition of particulate matter that doesn't require measurement for fugitive emissions.

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ISSUE	SOLUTION
Definition of particulate matter requires measurement by reference test method, difficult for fugitive emissions.	Add another definition of particulate matter that doesn't require measurement for fugitive emissions.
Rules do not expressly state that sources cannot violate any conditions of their permit, which makes taking enforcement action more difficult.	Add express rule language stating that a source cannot violate any condition of their permit.

Examples of Technical Clarifications

ISSUE	SOLUTION
Definition of particulate matter requires measurement by reference test method, difficult for fugitive emissions.	Add another definition of particulate matter that doesn't requirement measurement for fugitive emissions.
Rules do not expressly state that sources cannot violate any conditions of their permit, which makes taking enforcement action more difficult.	Add express rule language stating that a source cannot violate any condition of their permit.
Rules do not expressly state that sources must construct or modify in accordance with approved plans and specifications.	Add express rule language stating that a source must construct or modify in accordance with approved plans and specifications.

Examples of Technical Clarifications

ISSUE	SOLUTION
Current rules allow streamlined permit renewal application unless there are significant changes to the permit; permit writers don't have complete applications to renew permit.	Submit full application at renewal for Standard Air Contaminant Discharge Permits and Title V permits.

Examples of Technical Clarifications

ISSUE	SOLUTION
Current rules allow streamlined permit renewal application unless there are significant changes to the permit; permit writers don't have complete applications to renew permit.	Submit full application at renewal for Standard Air Contaminant Discharge Permits and Title V permits.
Current Air Contaminant Discharge Permit rules allow 90 days to submit information requested by DEQ; some requests can be answered in a few days.	Shorten time to submit information but provide for extension for good cause.

Examples of Technical Clarifications

85. All ~~other~~ sources, both stationary and portable, not listed herein which would have ~~actual~~ potential to emit~~ssions~~, if the source were to operate uncontrolled, of 5 or more tons per year of direct $PM_{2.5}$ or PM_{10} if located in a $PM_{2.5}$ or PM_{10} nonattainment or maintenance area, or 10 or more tons per year of any single criteria pollutant, if located in any part of the state.


QUESTIONS

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Next steps

- DEQ intends to post a meeting summary
- Please fill out the post-RAC#1 meeting survey
  - We will be following up shortly on the rulemaking advisory committee meetings schedule timeline
- Deadline to submit written comments post-RAC#1 is January 10th, 2022
- Sign up for meeting notifications

Rulemaking contact: Jill Inahara

jill.inahara@deq.state.or.us

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https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic_id=ORDEQ_244

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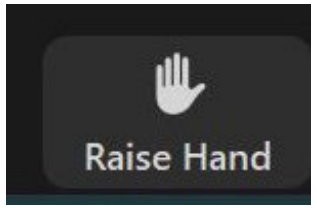
Public Input Period

- Public input period: 3:50 – 4 p.m.
- Raise your hand if you'd like to make a comment



- When making public input, please:
  - Respect time limits as assigned
  - Use respectful language
  - Address issues and questions—focus on substance
  - When possible, relate comments to topics on the RAC agenda
- Public input will be considered by DEQ but is not part of the formal comment period

Thank you!