



State of Oregon Department of Environmental Quality

# Oregon Environmental Quality Commission Meeting

Nov. 17, 2023

## Rulemaking Action Item K Regional Haze Round 2 Supplement

### Table of Contents

DEQ Recommendation to the EQC.....	1
Introduction .....	2
Statement of Need .....	3
Rules Affected, Authorities, Supporting Documents.....	4
Fee Analysis.....	6
Statement of Fiscal and Economic Impact .....	7
Racial Equity .....	9
Environmental Justice Considerations .....	10
Federal Relationship .....	11
Land Use.....	12
EQC Prior Involvement.....	13
Advisory Committee .....	14
Public Engagement .....	15
Implementation.....	23
Five Year Review .....	24
Accessibility Information.....	25

# DEQ Recommendation to the EQC

DEQ recommends the Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules; and

Approve incorporating the supplemental materials into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and

Direct DEQ to submit to the U.S. Environmental Protection Agency for approval:

- the Regional Haze Supplement;
- emission limits necessary for regional haze as enshrined in permits and orders included in the supplement;
- the Environmental Quality Commission Staff Report

## **Language of Proposed EQC Motion:**

*I move that the commission:*

*Adopt the proposed rule amendments in Attachment A as part of chapter 340 of the Oregon Administrative Rules; and*

*Approve incorporating the supplemental materials into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and*

*Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval:*

- *the Regional Haze Supplement*
- *emission limits necessary for regional haze as enshrined in permits and orders included in the supplement;*
- *the Environmental Quality Commission Staff Report*

# Introduction

Oregon's Regional Haze Rules implement the federal 1999 Regional Haze Rule as amended in 2017. The federal rule requires states to periodically update Regional Haze Plans. The purpose of the Regional Haze Program is to improve visibility in wilderness areas and national parks to attain natural visibility conditions by 2064. DEQ also implements the 2017 rule to protect and improve visibility in the Columbia River Gorge National Scenic Area.

DEQ submitted a Round 2 Regional Haze Plan to the U.S. Environmental Protection Agency in February 2022, with approval from the EQC. EPA determined that additional information was necessary to ensure approvability of the plan. In response, DEQ staff have developed a packet of supplemental information. The only rule change being proposed is the date listed for the State Implementation Plan, which must be updated every time DEQ submits a document to EPA for inclusion in the overall State Implementation Plan.

The supplement contains additional information requested by EPA to support their review of the Round 2 Regional Haze SIP submitted to EPA in 2022, including specific monitoring, recordkeeping and reporting requirements that are already contained in specific permits included in the Round 2 SIP, additional description on DEQ's reasoning for selecting controls in Round 2, and additional permit conditions for facilities where DEQ determined no cost effective controls existed for Round 2. DEQ is also submitting amended agreements that were made with facilities as part of Round 2.

# **Statement of Need**

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

The proposed rule would amend Oregon’s State Implementation Plan to document submittal of supplemental information amending the 2018 – 2028 Regional Haze Plan to the EPA, upon the Environmental Quality Commission’s direction. By submitting the supplement to the Round 2 Regional Haze Plan, DEQ will ensure approvability of the Regional Haze Plan and fulfill requirements of the Clean Air Act and the 2017 federal Regional Haze Rule.

## **How would the proposed rule address the need?**

The proposed rule adoption would document EQC’s direction to submit the supplement to the 2018 – 2028 Regional Haze Plan to EPA.

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

EPA’s approval of the 2018 – 2028 Regional Haze Plan will indicate that the proposed rule addressed the need.

# Rules Affected, Authorities, Supporting Documents

## Lead division

Air Quality – Division 200

## Program or activity

Regional haze

## Chapter 340 action

Amend	
340-200-0040	

Statutory Authority - ORS	
468.020	468A

Statutes Implemented - ORS	
468A.035	

## Documents relied on for rulemaking

Document title	Document location
Protection of Visibility: Amendments to Requirements for State Plans. US EPA (January 10, 2017) 82 FR 3078	<a href="https://www.govinfo.gov/content/pkg/FR2017-01-10/pdf/2017-00268.pdf">https://www.govinfo.gov/content/pkg/FR2017-01-10/pdf/2017-00268.pdf</a>
Guidance on Regional Haze State Implementation Plans for the Second Implementation Period. US EPA (2019)	<a href="https://www.epa.gov/sites/production/files/2019-08/documents/8-20-2019_-_regional_haze_guidance_final_guidance.pdf">https://www.epa.gov/sites/production/files/2019-08/documents/8-20-2019_-_regional_haze_guidance_final_guidance.pdf</a>
Clarifications Regarding Regional Haze State Implementation Plans for the Second Implementation Period. US EPA (July 8, 2021)	<a href="https://www.epa.gov/visibility/clarificationsregarding-regional-haze-state-implementationplans-second-implementation">https://www.epa.gov/visibility/clarificationsregarding-regional-haze-state-implementationplans-second-implementation</a>
Regional Haze Rule (2017), 40 CFR 51.308	<a href="https://www.law.cornell.edu/cfr/text/40/51.308">https://www.law.cornell.edu/cfr/text/40/51.308</a>
Regional Haze Rule (1999), 64 FR 35714	<a href="https://www.govinfo.gov/content/pkg/FR1999-07-01/pdf/99-13941.pdf">https://www.govinfo.gov/content/pkg/FR1999-07-01/pdf/99-13941.pdf</a>

# Rules Summary

As OAR 166-500-0030(1)(e) requires, the following are included to provide a summary of the proposed new rules and existing rules affected by this rulemaking.

## OAR chapter 340, division 200

Rule Number	Rule Title	Explanation
-0040	State of Oregon Clean Air Act Implementation Plan	Amends date Plan was last revised

# Fee Analysis

This rulemaking does not increase or create new fees. Although not a result of this rulemaking, DEQ acknowledges that stationary sources to which DEQ has issued orders to install pollution controls or otherwise reduce emissions of Round 2 regional haze pollutants, under existing authority as approved by the EQC in OAR Chapter 340, Division 223, may incur DEQ fees associated with construction notices, construction permits and permit revision.

# Statement of Fiscal and Economic Impact

The proposed rule has no fiscal or economic impacts; it simply approves submission of the supplemental informational supporting the regional haze plan elements DEQ has already issued to be submitted to EPA for approval as part of the State Implementation Plan.

## Statement of Cost of Compliance

### State agencies

No state agencies are regulated facilities under the proposed rule, so this rulemaking does not impose any mandatory requirements for state agencies and, accordingly, does not impose any direct compliance costs.

DEQ and possibly the Lane Regional Air Protection Agency staff will implement the Round 2 Regional Haze Plan with existing resources. DEQ does not expect any other state agency to be fiscally affected by the proposed rule.

### Local governments

No local governments are regulated under the proposed rule, so this rulemaking does not impose any mandatory requirements for local governments and, accordingly, does not impose any direct compliance costs. DEQ does not expect local governments to be fiscally responsible affected by the proposed rule.

### Public

This rulemaking does not impose any mandatory requirements for the public at large and, accordingly, does not impose any direct compliance costs on the public.

Although not a direct result of this rulemaking, DEQ expects implementation of the Regional Haze Plan, including the proposed supplement, will have indirect broad and positive fiscal effects on the public, particularly people living or working near regulated facilities or near activities affected by area source reductions documented in the Regional Haze Plan long term strategy. DEQ expects those indirect, positive fiscal effects would be through community health improvement and reduced health care costs. The Regional Haze Plan long term strategies will reduce the general public's exposure to Round 2 regional haze pollutants, NO<sub>x</sub>, PM, and SO<sub>2</sub>.

Short-term health effects of NO<sub>x</sub> exposure include respiratory irritation, which can exacerbate existing respiratory diseases, like asthma. NO<sub>x</sub> also leads to secondary formation of PM and ozone, each of which can lead to short-term respiratory impairment and long-term health effects, such as greater susceptibility to respiratory disease. Adverse health effects of PM exposure include both respiratory and cardiovascular impairment and damage, up to premature death for vulnerable populations. Exposure to SO<sub>2</sub> causes short-term



respiratory impairment and may lead to long-term respiratory damage and, as with NOx and PM exposure, most adversely affects older people, children, and those with respiratory diseases.

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

DEQ does not expect a fiscal impact for large business from the proposed rule. DEQ acknowledges that it expects that large businesses to whom DEQ issued orders under the previously approved Division 223 rules will incur fiscal impacts from implementation of the Regional Haze Plan.

## **Small businesses – businesses with 50 or fewer employees**

### **a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.**

None of the businesses regulated through implementation of the Regional Haze Plan are small businesses. DEQ confirmed this through a review of the U.S. business database, Reference USA.gov.

### **b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.**

None.

### **c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.**

None.

### **d. Describe how DEQ involved small businesses in developing this proposed rule.**

DEQ did not involve small businesses in developing the proposed rule because no small businesses are regulated by the proposed rule or through Regional Haze Plan implementation.

## **Advisory committee fiscal review**

DEQ did not convene a fiscal advisory committee for the proposed rule due to the extremely limited scope of the rule. The rulemaking consists of a change to the date the SIP was last updated, and the changes to the SIP consist of the addition of permit conditions to aid practical enforceability and other supplemental information. The supplement itself does not create new enforceable conditions but incorporates amended agreements into the state implementation plan and provides additional information on DEQ's decision making process for Regional Haze Round 2.

# Racial Equity

ORS 183.335(2)(a)(F) requires agencies to provide a statement identifying how adoption of the rule will affect racial equity in this state. Due to the extraordinarily limited scope of this rulemaking, adoption of the rule will not have an effect on racial equity in the state. The rulemaking consists of a change to the date the SIP was last updated, and the changes to the SIP consist of the addition of permit conditions to aid practical enforceability and other supplemental information. The supplement itself does not create new enforceable conditions but incorporates amended agreements into the state implementation plan and provides additional information on DEQ's decision making process for Regional Haze Round 2.

# Environmental Justice Considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues.

182.545 Duties of natural resource agencies. To provide greater public participation and to ensure that all persons affected by decisions of the natural resource agencies have a voice in those decisions, each natural resource agency shall:

(1) In making a determination whether and how to act, consider the effects of the action on environmental justice issues.

(2) Hold hearings at times and in locations that are convenient for people in the communities that will be affected by the decisions stemming from the hearings.

(3) Engage in public outreach activities in the communities that will be affected by decisions of the agency.

(4) Create a citizen advocate position that is responsible for:

(a) Encouraging public participation;

(b) Ensuring that the agency considers environmental justice issues; and

(c) Informing the agency of the effect of its decisions on communities traditionally underrepresented in public processes.

## *Environmental Justice analysis*

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. DEQ is committed to incorporating environmental justice best practices into its programs and decision-making, to ensure all people in Oregon have equitable environmental and public health protections.

During Regional Haze Round 2, already approved by the EQC, DEQ completed an environmental justice analysis which presented preliminary vulnerability lists of populations living near subject facilities and analyzed co-benefits of emissions reductions of communities adjacent to those facilities. DEQ conducted this analysis of each facility location using EPA's EJSCREEN, a web-based mapping tool that incorporates environmental and demographic data standardized nationally. The results of this analysis were incorporated into the process used to screen sources for potential impacts to visibility. The supplement builds on the information in the Round 2 Regional Haze plan, including past environmental justice analysis and provides additional context to decision making completed in the original SIP submittal.

## **Federal Relationship**

The proposed rule would allow DEQ, upon EQC direction, to fulfill a federal requirement to submit to EPA a supplement to the Round 2 Regional Haze Plan. The proposed rule is exclusively applicable to Oregon's implementation of the federal Regional Haze Rule and implements Oregon statutes that authorize DEQ to regulate air pollutant emission sources.

### **What alternatives did DEQ consider if any?**

DEQ did not consider alternatives to the proposed rule since submitting a Regional Haze Plan is a federal requirement.

# Land Use

## Considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
  - Resources, objects, or areas identified in the statewide planning goals, or
  - Present or future land uses identified in acknowledge comprehensive plans

DEQ determined whether the proposed rule involves programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

<b>Goal</b>	<b>Title</b>
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

## Determination

DEQ determined that the proposed rule does not significantly affect land use under OAR 340-018-0030 or DEQ’s State Agency Coordination Program.

# **EQC Prior Involvement**

DEQ did not present additional information specific to this proposed rule revision. The supplemental information proposed to be submitted to the US EPA is in support of the Round 2 Regional Haze Plan approved by the EQC in 2022.

# Advisory Committee

DEQ did not convene an advisory committee because of the extremely limited scope of the proposed rule. The rulemaking consists of a change to the date the SIP was last updated, and the changes to the SIP consist of the addition of permit conditions to aid practical enforceability and other supplemental information. The supplement itself does not create new enforceable conditions but incorporates amended agreements into the state implementation plan and provides additional information on DEQ's decision making process for Regional Haze Round 2.

# Public Engagement

## Public Hearing

DEQ held one public hearing. DEQ received one comment at the hearing. Later sections of this document include a summary of the comments received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

## Presiding Officers' Record

### Hearing 1

Date	Oct. 16, 2023
Place	Remotely via Zoom
Start Time	5:30 pm
End Time	6:30 pm
Presiding Officer	Tori Heroux

### Presiding Officer:

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

Three people attended the hearing remotely. One person commented orally, and no one submitted written comments at the hearing.



# Summary of Public Comments and DEQ Responses

## Public comment period

DEQ accepted public comment on the proposed rulemaking from Sept. 15, 2023 until 4 p.m. on Oct. 21, 2023.

For public comments received by the close of the public comment period, the following section presents comment summaries with cross references to the comment number. DEQ's response follows the summary. Original comments are on file with DEQ.

DEQ did not change the proposed rules in response to comments.

The table below lists people and organizations that submitted public comments about the proposed rules by the deadline.

<b>List of Commenters</b>				
<b>#</b>	<b>Name</b>	<b>Organization</b>	<b>Comment Number</b>	<b>Type</b>
1	Ashley Bennett Molly Tack Hooper	Earthjustice	1, 2	Written
2	Greg Sotir	Cully Air Action Team	1,2	Written
3	Ulla Reeves Daniel Orozco Colin Deverell	National Parks Conversation Association	1, 2	Written
4	Mary Peveto	Neighbors for Clean Air	1, 2	Written
5	Jonah Sandford	Northwest Environmental Defense Center	1, 2	Written
6	Jamie Pang	Oregon Environmental Council	1, 2	Written
7	Dale Feik	Hillsboro Air and Water	3	Oral

## Comment 1

DEQ should not approve alternative compliance options that fail to provide for pollution reductions that are equal to or better than those deemed necessary to achieve reasonable progress. We continue to strongly urge DEQ to follow the National Park Service's recommendation and require the installation of technically feasible and cost-effective controls that will achieve the greatest pollution reductions at sources selected for a four-factor analysis. As emphasized in our initial comments on Oregon's Draft SIP, DEQ's offer of alternative compliance options to several facilities runs counter to the Clean Air Act, federal Regional Haze requirements, and DEQ's own regulations because they fall short of guaranteeing emission reductions that are equivalent to or greater than those identified in the four-factor analyses of facilities contributing to haze pollution. DEQ, as required by the Clean Air Act, used the four-factor analyses to identify emission reduction measures that are necessary to make "reasonable progress" towards Congress's objective of eliminating human caused visibility impairment in Class I federal areas. 42 U.S.C. § 7491. This objective explicitly encompasses preventing future, and remedying existing, impairment. *Id.* § 7491(a)(1), (b)(2); *see also* 40 C.F.R. § 51.308(f). DEQ identified feasible and cost-effective controls for seventeen Oregon facilities through the four-factor analysis process. Rather than require the installation of these controls, DEQ accepted alternative compliance options for fifteen facilities—all of which result in substantially smaller emission reductions. EPA has made clear that "when the outcome of a four-factor analysis is a new measure, that measure is needed to remedy existing visibility impairment and is necessary to make reasonable progress." And as the National Park Service reiterated in its most recent comments, "acceptable alternative approaches should be supported by a demonstration that they are equivalent to or better than reasonable progress." Oregon's reasonable progress goals are based on emission reductions from the expected installation of controls identified as part of the initial four factor analyses—they do not account for smaller emissions reductions from alternative compliance options. Nothing in the SIP or Supplement demonstrates that allowing facilities to lower plant site emission limits ("PSELs"), so that their Q/d is less than five, is equivalent to the emission reductions deemed necessary to meet Oregon's reasonable progress goals.

DEQ also allowed several facilities to maintain PSELs at or, in some instances, above their 2017 actual emission levels that triggered inclusion in Oregon's Regional Haze program. EPA has explained that "[f]uture visibility impairment is prevented by mitigating impacts from new sources and ensuring that existing sources do not increase their emissions in a manner inconsistent with reasonable progress." Because some of the PSELs are set at levels that exceed 2017 actual emissions and contribute to existing visibility impairment, there is nothing in the SIP to prevent the following facilities from increasing their emissions and causing future impairment... Oregon Administrative Rule 340-223-0110(2)(b) unambiguously states that DEQ can only offer alternative compliance options that "provide for equivalent reductions to those identified in its review and adjustment of the four-factor analysis." Neither the SIP nor the Supplement offers any substantial justification for DEQ's assertion that it has "deemed alternative compliance controls and PSEL reductions capable of achieving equivalent emission reductions to the controls evaluated through a four-factor analysis." DEQ, Staff Report on 2018-2028 Regional Haze Plan for Environmental Quality

Commission (Feb. 3-4, 2022) at 47-48. There is also nothing in the SIP or Supplement that clearly specifies the emission reductions that the alternative compliance options will achieve, further frustrating any analysis of whether the emission reductions are equivalent to or surpass DEQ's initial determinations.

DEQ should not approve alternative compliance options that hinder Oregon's reasonable progress goals and fail to prevent future visibility impairment.

**DEQ received one comment in this category from commenters 1-6.**

### **Response**

DEQ appreciates these comments and shares the goal to reduce haze-forming emissions as much as possible. This comment is responsive to decisions made about regional haze in the previously submitted Round 2 Regional Haze Plan. DEQ's supplement is only intended to provide additional information necessary that EPA has requested to ensure approvability of the Round 2 Regional Haze Plan by EPA, including permit conditions and orders to ensure federal enforceability. No new action was taken in the preparation of the supplement, nor were any changes made to the approach laid out in the Round 2 Regional Haze Plan and approved by the Environmental Quality Commission in February 2022.

DEQ completed a rulemaking, adopted by the Oregon Environmental Quality Commission on February 3, 2022 to establish the procedures DEQ would follow for screening facilities into the program and for determining which technically feasible and cost-effective controls would be required to maintain reasonable progress. In those rules, DEQ allowed facilities to screen out of the program by reducing their plant site emission limits (PSELs) to "screen-out" the facility from considerations from additional controls. This option was available throughout the implementation of the rules and different facilities chose to take this approach at different points of the implementation of the Round 2 Regional Haze rules.

In most cases, facilities that took PSEL limits, actual emissions for each facility were already resulting in an "emissions and distance" (Q/d) screening equation resulting in a value less than 5, a level more conservative than most states. Oregon took the additional and more protective step of limiting potential emissions and not just actual emissions to protect against future degradation. Only two such facilities had an actual Q/d greater than 5 upon initial screening. The table below lists the actual and PSEL Q/d values for all facilities that took PSEL limits.

<b>Facility Screened in Using Q/d</b>	<b>2017 Actual Q/d</b>	<b>2017 PSEL Q/d</b>	<b>Outcome</b>
Kingsford Manufacturing Company	8.38	NA	No FFA - lowered PSEL to Q/d < 5.00
Cascades Tissue Group: A Division of Cascades Holding US Inc.	3.02	63.72	No FFA - lowered PSEL to Q/d < 5.00
Timber Products Co. Limited Partnership	1.63	6.07	No FFA - lowered PSEL to Q/d < 5.00
PGE Beaver Plant/Port Westward I Plant	3.24	34.60	No FFA - lowered PSEL to Q/d < 5.00
Roseburg Forest Products - Riddle Plywood	2.10	5.29	No FFA - lowered PSEL to Q/d < 5.00
Roseburg Forest Products - Medford MDF	2.91	8.84	No FFA - lowered PSEL to Q/d < 5.00
Boise Cascade Wood Products, LLC - Medford	4.19	7.02	Conducted FFA - then lowered PSEL to Q/d < 5.00
Gas Transmission Northwest LLC - Compressor Station 12	2.33	14.13	Conducted FFA - then lowered PSEL to Q/d < 5.00
JELD-WEN	2.13	6.30	Conducted FFA - then lowered PSEL to Q/d < 5.00
Northwest Pipeline LLC - Baker Compressor Station	4.02	14.81	Conducted FFA - then lowered PSEL to Q/d < 5.00
Kingsford Manufacturing Company	8.38	NA	No FFA - lowered PSEL to Q/d < 5.00
Klamath Energy LLC	6.91	16.40	No FFA. ODEQ determined that newly installed controls yield a Q/d < 5.00.

## **Comment 2**

DEQ should not extend alternative compliance deadlines beyond the regional haze planning period. Although the federal Regional Haze rule affords Oregon flexibility in determining compliance timelines, this flexibility under 40 C.F.R. § 51.308(f)(2)(i) has limits. DEQ cannot disregard EPA’s interpretation that Congress intended “the time necessary for compliance” to mean “expeditiously as practicable” without offering a compelling rationale for why a control measure cannot reasonably be installed within the specified planning

timeline of 2018 to 2028. *See* Protection of Visibility: Amendments to Requirements for State Plans, 82 Fed. Reg. 3078, 3089 (Jan. 10, 2017).

Nonetheless, DEQ extended compliance deadlines for emission unit replacements at certain facilities to July 31, 2031, citing delays in the submission of Oregon's Round 2 Regional Haze plan as the basis for this decision. This explanation fails to demonstrate why each of the facilities DEQ granted substantial extensions to cannot reasonably install pollution controls before the 2028 deadline. Extending compliance deadlines to July 31, 2031, will permit the continuation of current emission levels at these facilities for an additional three years without mitigation, undermining DEQ's capacity to achieve its reasonable progress objectives and effectively curtail haze-causing pollution. Even if DEQ can substantiate that control measures cannot reasonably be installed within the planning period, it is essential to note that EPA has clarified that "any emission reductions that will not occur until after the end of the implementation period should not be factored into the reasonable progress goals." 82 Fed. Reg. 3078, 3089. DEQ, therefore, would be required to remove from Oregon's reasonable progress goals emission reductions from the facilities granted extended deadlines and recalibrate those goals and emission reductions so that the state can meet its Clean Air Act obligations under the Regional Haze Program.

We strongly encourage DEQ to heed the National Park Service's recommendation to alter the compliance deadlines so that they fall within the 2028 deadline or remove the emission reductions from Oregon's reasonable progress goals and update the SIP accordingly.

#### **DEQ received one comment in this category from commenters 1-6.**

#### **Response**

Section 169A(b)(2)(B) of the Clean Air Act requires "a long term (ten to fifteen years) strategy for making reasonable progress" toward national regional haze goals. 40 CFR 51.308(f) set the 2018-2028 planning timeline for Round 2 of Regional Haze. However, EPA regulations explicitly contemplate the installation of controls outside of the planning period. 40 CFR 51.308(f)(2)(i) states that "[i]n considering the time necessary for compliance, if the State concludes that a control measure cannot reasonably be installed and become operational until after the end of the implementation period, the State may not consider this fact in determining whether the measure is necessary to make reasonable progress." This demonstrates that the State may require control measures that cannot reasonably be installed within the planning period. The excerpt cited by NPS from the 2019 regional haze guidance actually refers to regional scale modeling efforts rather than control measures. Regarding reasonable progress goals, Oregon is on target to achieve reasonable progress and stay on the glide path in Class I areas. DEQ took EPA's 2021 guidance that achieving Uniform Rate of Progress (URP) is not a "safe harbor" seriously and has worked to implement cost-effective controls beyond what was necessary to achieve URP. This included requiring controls that could not reasonably be anticipated to be operational during the planning period.

Generally, the majority of Oregon's compliance deadlines are within the planning period. In a few cases there are alternative compliance timelines which extend to 2031. Beyond the fact

that this is permissible under EPA’s regional haze regulations, it is practical due to the delays in the submission of Oregon’s Round 2 Regional Haze plan. These delays were due to EPA’s timeline in completing national scale modeling for regional haze, which states used as an input for regional scale modeling. Given that the process was delayed by three years, DEQ determined it was appropriate for facilities to utilize the entire 10 year period for installation of replacement emission units. This should not be interpreted to indicate a similar timeline for future equipment replacements; multiple factors were involved in this determination including the timing of the global pandemic and subsequent supply chain delays.

### **Comment 3**

In taking a look at what DEQ has said quite a while ago on this sector-based greenhouse gas emissions projections and goals based upon agricultural, industrial, residential and commercial electricity and transportation, it's projected not to meet the goals. So here we're having goals now for 2064, and what kind of actions are you going to have to take to really make it so it works? Because it's not working on greenhouse gases, and the DEQ are trying to do things to do to decrease that, but it's going to take a lot of effort to decrease this haze to get to where it's not worse especially with the increase in wildfires, and the wildfires aren't going to get better, they're going to get worse. And so we're going to end up having more haze and if you take a look at Intel, they have an application to go from about 800,000 GHG emissions per year to 1.7 million, and they'll end up being the biggest GHG emitter in Oregon because the coal plant Boardman is no longer there. So here you have regulations, you have all this, but how are they going to work, especially when you have large people that don't want to control them? I haven't got the details about that, I don't want to be cynical but...I'm not cynical, I'm optimistic. But my daughter and six- and nine-year-old granddaughters went to Sunriver for a vacation and there was so much wildfire smoke they came home because they couldn't breathe. Now they're trying it again, they just went out and I talked with them. So here we've got increased haze caused by natural—well, I don't know if it's natural, but it's fires caused by increased climate change—and so we're getting worse and worse and worse. And so it seems like we got to get better and better in our regulations to control it. Now I know there are industries and different people that don't want that to happen. So I'm just saying DEQ, do everything you can to create the opportunity for industries...to decrease the haze within what power you have and EPA and DEQ regulations...Don't be buffaloed by people that say we can't do this because we don't have the technology. Expect them to develop the technology so they can meet very strict standards.

DEQ received one comment in this category from commenter 7.

### **Response**

DEQ appreciates this comment and shares the commenter’s commitment to a regional haze program that provides robust co-benefits in terms of air quality improvement and GHG reductions. However, DEQ’s regional haze planning is focused on reducing haze in order to improve visibility in wilderness areas and national parks in Oregon and neighboring states. DEQ acknowledges the impact of forest fires on both visibility and public health and

commits to considering action to reduce area and mobile source emissions when developing a Round 3 Regional Haze Plan that will have co-benefits related to climate and public health.

# Implementation

## Notification

The proposed rules would become effective upon filing on approximately Nov. 18, 2023. DEQ would notify affected parties by:

- Emailing interested parties on the Air Quality permits and Regional Haze GovDelivery lists.
- Emailing DEQ regional air quality managers and staff.

## Compliance and enforcement

Implementation of this supplement will follow the same implementation practices approved by EQC with the Round 2 Regional Haze Plan on Feb. 3, 2022.

## Measuring, sampling, monitoring and reporting

Regulated sources must conduct measuring, sampling, monitoring and reporting requirements according to their modified permits, Stipulated Agreement and Final Orders and Orders.

DEQ staff will conduct inspections and review compliance reports that affected parties submit to determine compliance with modified permits, SAFOs and Orders.

## Systems

Website - DEQ will update its website with permit modification applications, Notices to Construct and modified permits as they are completed.

Database - DEQ will use the current air quality permitting database to implement the modified Title V and permits and will utilize the enforcement database to track compliance.

Invoicing - DEQ will use the current TRAACS database for invoicing.

## Training

DEQ Air Quality Operations and Planning staff will provide on-going assistance and guidance to regions as permit writers modify Title V permits for regional haze requirements over the next several years.



# Five-Year Review

## Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

## Exemption from five-year rule review

The Administrative Procedures Act exempts all proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

# Accessibility Information

[Español](#) | [한국어](#) | [繁體中文](#) | [Русский](#) | [Tiếng Việt](#) | [العربية](#)

Contact: 800-452-4011 | TTY: 711 | [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us)

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities.

Visit DEQ's [Civil Rights and Environmental Justice page](#).