



State of Oregon Department of Environmental Quality

# Draft Fiscal and Racial Impact Statements

Solar Noise 2024 Rulemaking

## Request for advisory committee comment

DEQ is requesting committee's feedback on:

- Whether the proposed rule amendments would have a fiscal impact
- If yes, the extent of the impact, and how DEQ might mitigate any impacts
- Whether the proposed rule amendments would have a significant adverse impact on small businesses, and if yes, how might DEQ reduce that impact.
- The draft racial equity statement and environmental justice considerations for these proposed rule amendments.

## Introduction

DEQ invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules. DEQ is proposing rule amendment to chapter 340, Division 35 (OAR 340-035-0035).

## Fee analysis

Every applicant for a site certificate for a solar generating plant pays for the actual costs of ODOE staff in the processing of their application. The proposed rule amendments do not directly create or change any existing fees. However, it is anticipated that by streamlining the application process, applicants will see reduced application costs.

### Translation or other formats

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State of Oregon  
Department of Environmental Quality

## **Statement of fiscal and economic impact**

The role of the Oregon Department of Energy, Energy Facility Siting Council is to certify the construction of new, large energy facilities in Oregon. Because the noise of equipment and infrastructure at these facilities may exceed the threshold for public health and safety, the certification process for these projects must include a noise requirement.

In 2004, DEQ's Environmental Quality Commission adopted a rule amendment to its Noise Control Regulations under Division 35 for wind electrical generation facilities. The rule change established a noise threshold for wind projects in lieu of a requirement for developers to conduct costly noise studies. It also allowed landowners the flexibility to waive the ambient noise degradation standards for their properties while adhering to the noise standards for new industrial and commercial sources.

The certification of new solar photovoltaic energy generation facilities is hindered by the lack of language in OAR 340-035-0035 regarding the minimum noise requirement. In partnership with ODOE, DEQ proposes a rule amendment to allow solar photovoltaic energy generation facilities to demonstrate compliance with noise regulations, in the same manner as adopted by the EQC for wind electrical generation facilities.

## **Fiscal and economic impact of the proposed updates**

The purpose of this rulemaking is to streamline the siting process for solar projects. Not having to perform initial noise surveys to set a baseline for noise levels is a cost savings equal to the cost of performing said surveys, which will vary by the location and size of the solar project in question.

The landowner waivers for noise degradation should result in projects going forward that might otherwise have a more difficult time doing so. Projects that would have already gone forward will do so more swiftly than under the present rules where waivers are not possible. This could have positive fiscal and economic impacts resulting from the development and operation of new energy facilities, along with possible financial incentives developers may offer landowners in order to receive a noise related waiver.

## **Statement of cost of compliance**

### **State agencies**

For the Oregon Department of Energy, the proposed amendment will require fewer resources, as staff for EFSC will no longer be required to review data related to initial noise level surveys. This will enable staff resources to be deployed on other matters.

## **Local governments**

These new rules are not anticipated to result in any changes with respect to local governments.

## **Public**

Residential, commercial, and industrial spaces are not directly impacted by changes to the ambient noise standards set forth in Division 35. Solar projects in the state are still required to meet the same noise standards. It is possible that additional solar projects may occur, which has a whole host of possible implications, e.g., more land developed for solar projects, but this is extremely difficult to estimate. It is possible that no additional projects are developed as a result of these rule changes.

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

DEQ anticipates that approximately 12-15 large businesses may be directly impacted by the proposed rule amendments, but it is hard to quantify. Presumably a less onerous siting process for solar projects could potentially attract additional developers, increasing the number impacted by these rule changes.

## **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.**

Based on comments made by the Fiscal Impact Advisory Committee for previous energy siting related rulemakings, we estimate that there may be approximately 12-15 energy developers operating in Oregon that have 50 or fewer employees, although to our understanding, many of these companies utilize parent companies or affiliates as a core part of their business model and thus may not qualify as small businesses. However, assuming they all qualify as small businesses, and assuming all were to apply for a site certificate in the future (which is not expected), our best estimate is that there are potentially 12-15 small businesses that could be affected by the proposed rules.

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

If a small business were to apply for a site certificate in the future, the impacts would be identical to those experienced by other applicants and certificate holders. Such impacts are not expected to be significant nor disproportionately affect small businesses as compared to other businesses because the impact of the rules is not related to the size of the business proposing a project but to the size and location of the project being proposed.

The expected reporting, recordkeeping and administrative activities and other costs required to comply with the rules would be similar to those required under the current

rules, with the exception that fewer work would need to be done to establish the default noise floor as part of an application for a site certificate.

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

In short, there is no anticipated increased equipment, supplies, labor, or administration required for small businesses to comply with the rule as currently proposed.

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

## Documents relied on for fiscal and economic impact

Document title	Document location
Program data – Permit Applications	Oregon Department of Energy, Energy Facility Siting Division
Oregon Health Authority Public Health Division 2020 Report - Climate and Health in Oregon	<a href="#">Oregon Climate and Health Report</a>
U.S. Census Bureau – 2020 American Community Survey 5-Year Estimate (Table S1903)	<a href="https://data.census.gov/table/ACSST5Y2020.S1903?q=United%20States&amp;t=Income%20and%20Earnings&amp;g=040XX00US41&amp;tid=ACSSST5Y2020.S1903">https://data.census.gov/table/ACSST5Y2020.S1903?q=United%20States&amp;t=Income%20and%20Earnings&amp;g=040XX00US41&amp;tid=ACSSST5Y2020.S1903</a>

## Advisory committee fiscal review

ORS 183.33 requires DEQ to ask for the committee’s feedback on:

- Whether the proposed rule amendments would have a fiscal impact
- If yes, the extent of the impact, and how DEQ might mitigate any impacts
- Whether the proposed rule amendments would have a significant adverse impact on small businesses, and if yes, how might DEQ reduce that impact.

The committee will review the draft fiscal and economic impact statement and will share its findings with DEQ staff, who will document those comments and findings.

## **Housing cost**

As ORS 183.534 requires, DEQ evaluated whether the proposed rule would have an 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. DEQ determined the proposed rule amendments will have no impact on the supply of housing or land for residential development. The proposed rule amendments will not impact the cost of labor or administration related to such development.

## **Racial equity and environmental justice considerations**

Communities subjected to environmental injustice are impacted by climate change first and hardest<sup>1</sup>. Climate change and air pollution represent additional cumulative impacts that exacerbate the disparities between different racial groups in Oregon. Lower-income Oregonians are disproportionately non-white<sup>2</sup>, and are less able to adapt to hotter summers, increasing pollution from wildfires, and are more likely to work in frontline occupations. Frontline workers, and especially those that work outdoors such as farmworkers, who are majority-Latin American in Oregon, bear disproportionate exposure to the negative impacts of climate change and worsening air quality.

These proposed rule changes are designed to accelerate the adoption of solar energy by reducing the complexity and difficulty of siting solar projects in the state while still protecting the people and resources of the state of Oregon. Those who are exposed to the worst harms of polluted air and hotter summers stand to benefit the most from cleaner air and reduced pollution from fossil fuel emissions from natural gas power plants.

### **Non-discrimination statement**

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](#).

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<sup>1</sup> [Oregon Health Authority Public Health Division. 2020 Report -Climate and Health in Oregon.](#)

<sup>2</sup> [U.S. Census Bureau – 2020 American Community Survey 5-Year Estimate](#) (Table S1903 - Median Income in the Past 12 Months (In 2020 Inflation-Adjusted Dollars)).