



State of Oregon Department of Environmental Quality

# Notice of Proposed Rulemaking

**May 28, 2021**

Regional Haze 2021 Division 223 Rulemaking

This package contains the following documents:

- Notice of Rulemaking
- Supporting Documents
- Draft Rules

## **Note for Readers:**

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# Introduction and Summary

DEQ invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules which will implement aspects of the Federal Clean Air Act in Oregon to address regional haze in certain areas of the state.

## Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business. The proposed rules would apply statewide, including Lane County, where Lane Regional Air Protection Agency implements and enforces Clean Air Act requirements. DEQ requests comments on how the proposed rules should be implemented to regulate LRAPA permitted sources subject to the proposed rules.

## Overview

The proposed rules pertain to Oregon's implementation of the federal 1999 Regional Haze Rule, amended in 2017. The purpose of the Regional Haze program is to improve visibility in wilderness areas and national parks with the goal to attain natural visibility conditions by 2064. The 1977 Clean Air Act designated certain wilderness areas and national parks as Class 1 areas and the 1990 Clean Air Act amendments mandated specific visibility protection in these areas. In Oregon, 11 wilderness areas and Crater Lake National Park are Class 1 areas. DEQ implements the Regional Haze Rule to address visibility in these areas and to protect and improve visibility in the Columbia River Gorge National Scenic Area.

Through cooperative agreements with federal agencies, Oregon monitors visibility at six locations near Class 1 areas that are part of a national network established in 1988. The objectives of the national monitoring program include establishing current visibility conditions; identifying the chemical species and emission sources responsible for existing human-made visibility impairment; and assessing progress towards natural visibility conditions.

DEQ completed Oregon's first Regional Haze State Implementation Plan (SIP) in 2010 and submitted the SIP to the US Environmental Protection Agency. The federal Regional Haze rule requires states to periodically update their plans to make progress towards the goal of attaining natural visibility by 2064. DEQ reported progress on the first regional haze implementation period in 2017. DEQ is currently preparing a Round 2 Regional Haze Plan and intends to submit this second SIP to EPA, covering the years 2018 through 2028. In developing the Round 2 Regional Haze Plan, DEQ must consult with neighboring states, federal land management agencies and EPA, in addition to government to government consultation with Oregon's nine federally recognized tribal nations. DEQ has undertaken its responsibilities under the Regional Haze Rule through these consultations and following EPA's 2019 Regional Haze Guidance. DEQ is now working to prepare a SIP to implement Round 2 of regional haze and plans to complete and publicly notice the Regional Haze SIP in fall 2021 and then, after receiving direction from the Environmental Quality Commission, submit the SIP to EPA for approval.

This rulemaking responds to the requirement under the federal Regional Haze Rule that regional haze SIPs include enforceable emission reductions of haze-forming pollutants. The Round 2 regional haze pollutants are particulate matter, nitrogen oxides and sulfur dioxide. These pollutants are abbreviated as PM, NO<sub>x</sub>, and SO<sub>2</sub>. The proposed rules would codify in Division 223 the screening procedure and information collection that DEQ undertook, using existing authority in OAR 340-214-0110 to request information from certain sources, and would establish what sources DEQ will require to take action under Round 2 of regional haze. The proposed rules would also establish what action is required of those identified regulated sources through a number of compliance options. With the proposed revisions to Division 223, DEQ also proposes that EQC repeal rules that implemented the first round of Regional Haze requirements and which are no longer relevant.

DEQ convened a fiscal advisory committee to provide input and recommendations on the draft Fiscal Impact Statement for the Division 223 proposed rules. FAC members included representatives from tribal government natural resources, industry, environmental advocacy, public health advocacy, and the state's tourism sector. FAC members concluded that the proposed rules will have fiscal impacts on regulated large businesses – the Title V stationary sources which the proposed rules regulate. FAC members did not find that the proposed rules would have a significant adverse impact on small business. Multiple FAC members stated that insufficient information in the fiscal impact statement and uncertainty prevented them from determining the extent of fiscal impacts on regulated entities, small business and the public.

## Procedural Summary

### More information

Information about this rulemaking is on this rulemaking's web page: [Regional Haze 2021 Rulemaking](#)

### Public Hearings

DEQ plans to hold one public hearing remotely. Anyone can attend the hearing by webinar or by teleconference. DEQ invites persons with disabilities or language barriers to inform DEQ if they need auxiliary aids and services, such as assistive listening devices or sign language interpreters or other reasonable accommodations, to meaningfully participate in the hearing.

Date: Monday, June 28, 2021

Start time: 5:30 p.m.

Remote meeting held via Zoom

Webinar [link](#)

Join by phone:

Call-in number: 1-253-215-8782

Meeting ID: 838 7011 9414

Meeting Password: 243020

Instructions on how to join webinar or teleconference: [Webinar/teleconference instructions](#)

## How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone may submit comments and questions about this rulemaking. A person may submit comments by email, by regular mail or at the public hearing.

### Comment deadline

The deadline to submit comments is 4 p.m. PST, on Wednesday, June 30, 2021. DEQ will only consider comments on the proposed rules that DEQ receives by that date and time.

### Submit comments by email to:

[RHSIP2021@deq.state.or.us](mailto:RHSIP2021@deq.state.or.us)

### Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law unless the public interest requires otherwise. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

### By mail

Oregon DEQ  
Attn: Karen F. Williams  
700 NE Multnomah St., Room 600  
Portland, OR 97232-4100

### At hearing

Date: Monday, June 28, 2021  
Start time: 5:30 p.m.  
Remote meeting held via Zoom

Webinar [link](#)

Join by phone  
Call-in number: 1-253-215-8782  
Meeting ID: 838 7011 9414  
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### Accessibility Information

You may review copies of all documents referenced in this announcement electronically. To schedule a review of all websites and documents referenced in this announcement, call Karen F. Williams, DEQ (503-863-1664).

Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format, or any other arrangements necessary to accommodate a disability. To make these arrangements, contact DEQ, Portland, at 503-229-5696 or call toll-free in Oregon at 1-800-452-4011, ext. 5696; fax to 503-229-6762; or email to [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us). Hearing impaired persons may call 711.

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Get email or text updates about other, future DEQ rulemaking by signing up through this link: [DEQ Email Notice List](#).

## **What will happen next?**

DEQ will consider all comments received and will include a written response to comments in a staff report DEQ will submit to the Environmental Quality Commission along with the proposed rules. DEQ may modify the rule proposal based on the comments.

Proposed rules only become effective if the EQC adopts them. DEQ plans to present the proposed rules to the EQC for a decision at its meeting July 22 – 23, 2021.

# Statement of need

## What need would the proposed rule address?

The proposed rules would allow DEQ to implement the federal Regional Haze Rule and prepare a SIP that DEQ deems sufficient to meet EPA’s standards for approval. The Regional Haze Rule requires DEQ to develop a long term strategy to make reasonable progress toward natural visibility conditions by considering all sources of visibility impairment, including “major and minor stationary sources, mobile sources, and area sources [§51.308(d)(3)(iv)].” The Regional Haze Rule requires that the long term strategy must include “enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals [§51.308(d)(3)].” The proposed rules codify the process by which DEQ will comply with the Regional Haze Rule by analyzing haze-forming emissions affecting Class 1 areas, identifying all reasonable and technically feasible emission reductions and requiring those emission reductions that DEQ deems reasonable. EPA has clarified that a state may not reject feasible and reasonable emission reductions even when the state is making reasonable progress toward visibility goals; EPA refers to this concept as a reasonable rate of progress not being “safe harbor.”<sup>1</sup>

The proposed rules codify in Division 223 the screening procedure and processes DEQ followed to identify sources that must take action under Oregon’s implementation of the Regional Haze Rule. The proposed rules also establish information gathering requirements and compliance options for those regulated sources identified through the screening procedure and processes. Additionally, the proposed revisions to Division 223 repeal rules that were only applicable to the first round of regional haze implementation and are no longer relevant. DEQ will issue orders to and enter agreements (issued as stipulated agreements and final orders) with regulated facilities to reduce Round 2 regional haze pollutant emissions based on the codified compliance options. DEQ must include orders and agreements to reduce Round 2 regional haze pollutants in the SIP submitted for EPA’s approval.

## How would the proposed rule address the need?

DEQ has completed its analysis of Round 2 regional haze pollutant emissions from stationary sources to be regulated under these proposed rules. The proposed rules would require the emissions reductions and controls that DEQ has deemed reasonable. The proposed rules, when codified, will support DEQ’s issuance of orders and agreements to achieve Round 2 regional haze emission reductions and pollution control installation, will remove rules that are no longer applicable to any sources, and will allow DEQ to develop a SIP that DEQ deems sufficient to meet EPA’s standards for approval. Orders and agreements included in the SIP will be federally enforceable, as the 2017 Regional Haze Rule requires.

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<sup>1</sup> EPA (January 10, 2017) 82FR3078 at 3093. <https://www.govinfo.gov/content/pkg/FR-2017-01-10/pdf/2017-00268.pdf> accessed 05/26/21.

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

DEQ will issue enforceable orders and agreements and include them in the Round 2 Regional Haze SIP. EPA's acceptance of the SIP will indicate that the proposed rules addressed the need.



# Rules affected, authorities, supporting documents

## Lead division

223

## Program or activity

Regional Haze

## Chapter 340 action

Adopt				
340-223-0100	340-223-0110	340-223-0120	340-223-0130	
Amend				
340-200-0040	340-223-0010	340-223-0020		
Repeal				
340-223-0030	340-223-0040	340-223-0050	340-223-0060	340-223-0070
340-223-0080				

Statutory Authority - ORS				
468.020	468.065	468A		

Statutes Implemented - ORS				
468A.035	468A.135	468A.025		

## Documents relied on for rulemaking

Document title	Document location
Protection of Visibility: Amendments to Requirements for State Plans. US EPA (January 10, 2017) 82FR3078	<a href="https://www.govinfo.gov/content/pkg/FR-2017-01-10/pdf/2017-00268.pdf">https://www.govinfo.gov/content/pkg/FR-2017-01-10/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>
Western Regional Air Partnership, Technical Support System	<a href="https://views.cira.colostate.edu/tssv2/">https://views.cira.colostate.edu/tssv2/</a>
Four Factor Analysis documents submitted by regulated Title V stationary sources	<a href="https://www.oregon.gov/deq/aq/Pages/haze-ffa.aspx">https://www.oregon.gov/deq/aq/Pages/haze-ffa.aspx</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>

# Fee Analysis

This rulemaking does not increase or create new fees. Entities regulated by the proposed rules may incur DEQ fees associated with construction notices, construction permits, and permit revisions. DEQ includes fees among the fiscal impacts described later in this document in the Fiscal Impacts to Large Businesses section.

# Statement of fiscal and economic impact

## Fiscal and Economic Impact

The proposed rules codify the methodology by which DEQ screened and identified facilities that must install pollutant controls or reduce emissions of Round 2 regional haze pollutants. The proposed rules would also establish what action is required of those identified regulated sources through a number of compliance options. The proposed rules have four elements:

- DEQ completes an initial screening based on facility emissions and distance to Class 1 areas to determine what facilities will be regulated under the proposed rules;
- Regulated facilities are required to undertake an analysis to determine the feasibility and cost-effectiveness of pollutant controls; and
- Regulated facilities may choose a compliance path and request to enter into an agreement with DEQ that will achieve required emission reductions by a time certain; or
- DEQ issues orders to regulated facilities to install pollution control equipment by a time certain.

DEQ has already implemented the first two elements of the proposed rules under its existing authority (OAR 340-214-0110). DEQ doesn't expect that facilities incurred costs at the initial screening because the initial screening does not involve any input from facilities but is calculated based on information already in DEQ's possession. DEQ expects that regulated facilities did incur costs when they were required to analyze the feasibility of pollution controls and will incur costs when they either agree to a compliance path or DEQ orders them to take certain compliance actions.

## Statement of Cost of Compliance

### State agencies

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

DEQ and possibly LRAPA staff will implement the proposed rules. The fiscal effects on DEQ and LRAPA include dedicating resources such as permit writers, inspectors, compliance and enforcement staff, and management oversight. DEQ does not expect any other state agency to be fiscally affected by the proposed rules.

### Local governments

No local governments are regulated facilities under the proposed rules, 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 affected by the proposed rules.

## Public

The rulemaking does not impose any mandatory requirements for the public at large and, accordingly, does not impose any direct compliance costs on the public. DEQ addresses the potential for the proposed rules to increase the cost of building materials in the Housing Cost section of this document.

DEQ expects the proposed rules to have indirect, broad and positive fiscal effects on the public, particularly people living or working near regulated facilities, through community health improvement and reduced health care costs. Pollution control equipment required through the proposed rules reduces 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.<sup>2</sup> Adverse health effects of PM exposure include both respiratory and cardiovascular impairment and damage, up to premature death for vulnerable populations.<sup>3</sup> Exposure to SO<sub>2</sub> causes short-term respiratory impairment and may lead to long-term respiratory damage and, as with NO<sub>x</sub> and PM exposure, most adversely affects older people, children, and those with respiratory diseases.<sup>4</sup>

DEQ is not aware of calculated public health costs saved from this rulemaking but refers to information available through the Oregon Health Authority that estimates the health burden costs from diseases exacerbated by air pollution (Table 1). According to OHA 2017 data and analysis, lower respiratory disease is the fifth leading cause of death for Oregonians.<sup>5</sup> A comprehensive 2002 study assessed the contribution of pollution to disease and found that 10-30% of asthma is attributable to outdoor air pollution (including both industrial and non-industrial sources). In the early 2000s, the yearly fraction of asthma cases that could be attributed to environmental factors cost the US between \$0.7 and \$2.3 billion. These cost estimates account for direct medical costs and lost productivity due to asthma-related premature deaths.<sup>6</sup>

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<sup>2</sup> Environmental Protection Agency. Basic information about NO<sub>2</sub>. <https://www.epa.gov/no2-pollution/basic-information-about-no2#Effects>, accessed 05/06/21.

<sup>3</sup> Ibid. Health and Environmental Effects of Particulate Matter. <https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm>, accessed on 05/06/21.

<sup>4</sup> American Lung Association. Sulfur Dioxide. <https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/sulfur-dioxide>, accessed on 05/06.21.

<sup>5</sup> <https://www.oregon.gov/OHA/PH/ABOUT/Documents/indicators/leadingcausesofdeath.pdf>

<sup>6</sup> Landrigan PJ, Schechter CB, Lipton JM, Fahs MC, Schwartz J. Environmental pollutants and disease in American children: estimates of morbidity, mortality, and costs for lead poisoning, asthma, cancer, and developmental disabilities. *Environ Health Perspect.* 2002 Jul;110(7):721-8.

<b>Table 1 Public Health Costs from Diseases Exacerbated by Air Pollution</b>			
<b>Health Outcome</b>	<b>Description</b>	<b>Average Annual Cost of Each Case</b>	<b>Estimated Annual Medical Costs in Oregon<sup>7,8</sup></b>
Asthma	Estimates for adults and children	\$2,740	\$411 million
Cardiovascular disease	Estimates for adults only - hypertension, stroke, coronary heart disease, congestive heart failure, other	\$2,220- \$16,760 (disease- specific)	\$3.6 billion <sup>9</sup>

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

DEQ does not expect a fiscal impact for large businesses that are not regulated facilities. DEQ expects that large businesses that are regulated facilities will incur fiscal impacts from the proposed rules. The application of the initial screening in the proposed rules identified 32 large businesses as regulated facilities and DEQ required those facilities to conduct further analysis of their emissions and pollution controls. The proposed rules codify the requirement that those businesses conduct an analysis to identify emission control measures and to characterize four factors: cost, time to install, remaining useful life, and energy/non-air effects. DEQ expects regulated large businesses may use internal technical and professional resources or may contract with a consulting firm to fulfill the four factor analysis component of the proposed rules. DEQ estimates that a complex four factor analysis may require approximately 120 hours of professional time, at a rate of \$200/hr. In Table 2, DEQ provides a range of costs a large businesses may incur to complete a four factor analysis, either in-house or through a consultant. DEQ acknowledges that a facility may use both consultant and in-house resources to conduct a four factor analysis and therefore the costs in Table 2 may be additive.

<sup>7</sup> Calculated using the CDC Chronic Disease Cost Calculator – see footnote 7 – based on 2008 prevalence and cost statistics and 2010 census data. Estimates are limited to medical expenditures and do not include indirect costs such as missed days of work and school.

<sup>8</sup> Estimated medical treatment costs of chronic diseases, Oregon 2010.

[https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/CDCC\\_2010.pdf](https://www.oregon.gov/oha/PH/DISEASES/CONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/CDCC_2010.pdf)

<sup>9</sup> This cost estimate integrates costs of all cardiovascular disease without double counting costs of treatments for comorbid cardiovascular conditions.

<b>Table 2 Cost of Completing Four Factor Analysis</b>	
<b>Consultant Fees</b>	<b>Facility Professional Resources</b>
\$5,000 - \$25,000	\$5,000 - \$25,000

The proposed rules allow regulated facilities two compliance options. A regulated facility may enter into an agreement with DEQ to timely reduce emissions or install controls that DEQ determines are cost-effective. DEQ will issue orders to regulated facilities that do not enter into agreements with DEQ to install pollution controls by a time certain. The costs of control installation and maintenance depends on the number and size of emission units. Table 3 lists estimated cost ranges for pollution control equipment that reduces emissions of round 2 regional haze pollutants. DEQ estimated Table 3 costs from information and vendor quotes that facilities submitted in the response to the agency’s request that facilities provide this information under OAR 340-214-0110.<sup>10</sup> DEQ drew costs for electrostatic precipitation and baghouses from the Cleaner Air Oregon rulemaking fiscal impact statement.<sup>11</sup>

<sup>10</sup> <https://www.oregon.gov/deq/air/Pages/haze-ffa.aspx>

<sup>11</sup> <https://www.oregon.gov/deq/Rulemaking%20Docs/cao-pn2notice.pdf>

**Table 3  
Cost of Pollution Control Installation and Maintenance**

<b>Pollution Control Device</b>	<b>Applicable to</b>	<b>Pollutant Controlled</b>	<b>Installation</b>	<b>Operations and Maintenance</b>
Low NO <sub>x</sub> Burner - LNB	combustion of natural gas	NO <sub>x</sub>	\$10 - 45 thousand per MMBtu/hr of equipment capacity	\$1 - 5 thousand/year, per MMBtu/hr of equipment capacity
Selective Catalytic Reduction - SCR	combustion	NO <sub>x</sub>	\$3 - 30 million	\$0.1 - 4 million/year
Selective Non-Catalytic Reduction - SNCR	combustion	NO <sub>x</sub>	\$1 - 6 million	\$50 - 500 thousand/year
Electrostatic Precipitation - ESP	equipment that generates fine particulate matter	PM	\$0.3 - 8 million	\$0.1 - 8 million/year
Catalytic Ceramic Filters - CCF	glass furnaces	NO <sub>x</sub> , PM10, SO <sub>2</sub>	Approximately \$5,000 per ton of pollutant removed	
Ultra Low Sulfur Diesel Fuel - ULSD	equipment formerly using high-sulfur #6 Fuel Oil as backup	SO <sub>2</sub>	No additional cost. No additional changes to site.	
Baghouse	dust-generating equipment	PM10	\$0.3 - 20 million	\$0.1 - 7 million/year
Low Emission Combustion - LEC	reciprocating natural gas compressor engines	NO <sub>x</sub>	\$2 - 5 million per engine	\$2 - 300k/year per engine

Under the proposed rules, regulated facilities may enter into stipulated agreements with DEQ or DEQ issues an order to the facility requiring the facility to reduce emissions or install controls by a time certain. To fulfill the agreements or comply with DEQ's orders, regulated facilities may incur fees for permit revisions. There may also be costs to some facilities for a notice to construct and, under certain conditions, a construction Air Contaminant Discharge permit. Table 4 lists the permitting costs that regulated facilities may incur. DEQ also included consulting costs in Table 4 based on a comment received in the FAC meeting.

Multiple FAC members also recommended that DEQ acknowledge the potential adverse environmental effects and cost that facilities may incur by installing certain pollution controls, such as Selective Catalytic Reduction and Selective Non-Catalytic Reduction. FAC members commented that these technologies require additional electricity use, result in greater greenhouse gas emissions, and may lead to ammonia emissions; ammonia is a



hazardous air pollutant subject to regulation under Cleaner Air Oregon – DEQ’s air quality permitting program for toxic air contaminants.

DEQ acknowledges that some, though not all, pollution controls for NOx, PM and SO2 will increase a facility’s energy use and energy costs. The proposed rules would codify the Four Factor Analysis process required by the Regional Haze Rule and used to identify reasonable and feasible controls. The fourth factor of this analysis is “energy and non-air effects.” The propose rules allow for energy use, and associated costs, to be considered and balanced among other factors in identifying feasible and reasonable controls.

DEQ would expect energy use, additional greenhouse gas emissions and cost to vary depending on several facility-specific and control-specific characteristics. For example, some control devices may reduce greenhouse gas emissions by tuning a boiler to run more efficiently; some may increase greenhouse gas emissions if emissions require reheating to reach reaction temperature (e.g. SCR). Even if additional heat is required, in some cases, that could be supplied by waste heat, not requiring more energy use.

Regarding ammonia emissions from SCR and SNCR, some systems include ammonia monitoring and adjustment to minimize usage and “slip.” According to DEQ Cleaner Air Oregon technical staff, some sources may be required to monitor, report and potentially perform mass balance calculations for ammonia that had not been required before installing SCR or SNCR. DEQ would not expect ammonia slip to contribute significantly to the toxic air contaminant risk from a facility’s emissions as ammonia has low toxicity. DEQ concludes that potentially adverse environmental effects and costs that a facility may incur from operating SCR and SNCR, including additional energy use and permit compliance, would not necessarily eliminate these technologies as feasible and cost effective controls.

<b>Table 4 Permitting Costs</b>			
<b>Notice to Construct</b>	<b>Construction ACDP*</b>	<b>Specific Activity Fees Existing Source Permit Revisions 340-220-0050(2)(a)</b>	
\$720	\$14,400	Administrative	\$510
		Simple	\$2,041
		Moderate	\$15,306
		Complex	\$30,612
Consulting Fees		\$10,000 - \$30,000	

\* If Construction ACDP fulfills Title V format, procedures and public notice requirements, DEQ may revise the Title V permit through an administrative amendment.

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

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

Some small businesses may be indirectly affected by the proposed rules. DEQ anticipates that such small businesses will see a positive fiscal impact. DEQ does not currently know how many small businesses would be impacted by the proposed rules because DEQ does not have information about the extent to which different kinds of small businesses benefit from visitors to Class 1 areas. The types of small businesses that may be impacted by the proposed rules include those in the tourism, leisure and hospitality industry in areas of the state welcoming visitors to wilderness areas, the Columbia River Gorge National Scenic Area, and Crater Lake National Park. National Parks and wilderness areas attract tens to hundreds of thousands of visitors each year. According to the US Forest Service National Visitation Monitoring system, in 2016, more than 200,000 people visited the Mt. Hood Wilderness area and more than 3 million visited the Columbia Gorge National Scenic Area.<sup>12</sup> In 2019, approximately 27,000 people visited wilderness areas in the Wallowa Whitman National Forest,<sup>13</sup> the largest of which are Eagle Cap and Hells Canyon (in 2016 and 2019, respectively) and more than 700,000 visited Crater Lake National Park.<sup>14</sup>

In Oregon, the tourism industry is mainly composed of small businesses, according a recent report from the Oregon Employment Department, “Of Oregon’s 204,612 leisure and hospitality jobs in March 2020, 125,778 were in establishments with 10 to 49 workers.”<sup>15</sup>

According to the Oregon Employment Department, in 2019, approximately \$5 billion in wages were paid within the Leisure and Hospitality industry sector, employing more than 200,000 people in more than 14,000 businesses. Counties containing Class 1 wilderness areas and national parks, are among those deriving a relatively high percentage of employment income from travel and tourism, compared to all industry totals.<sup>16</sup> Note in Figure 1 relatively high leisure and hospitality quotients in Hood, Deschutes, Klamath and Wallowa Counties.<sup>17</sup>

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<sup>12</sup> US Forest Service, National Visitor Use Monitoring  
<https://apps.fs.usda.gov/nvum/results/A06022.aspx/FY2016>

<sup>13</sup> *Ibid.*

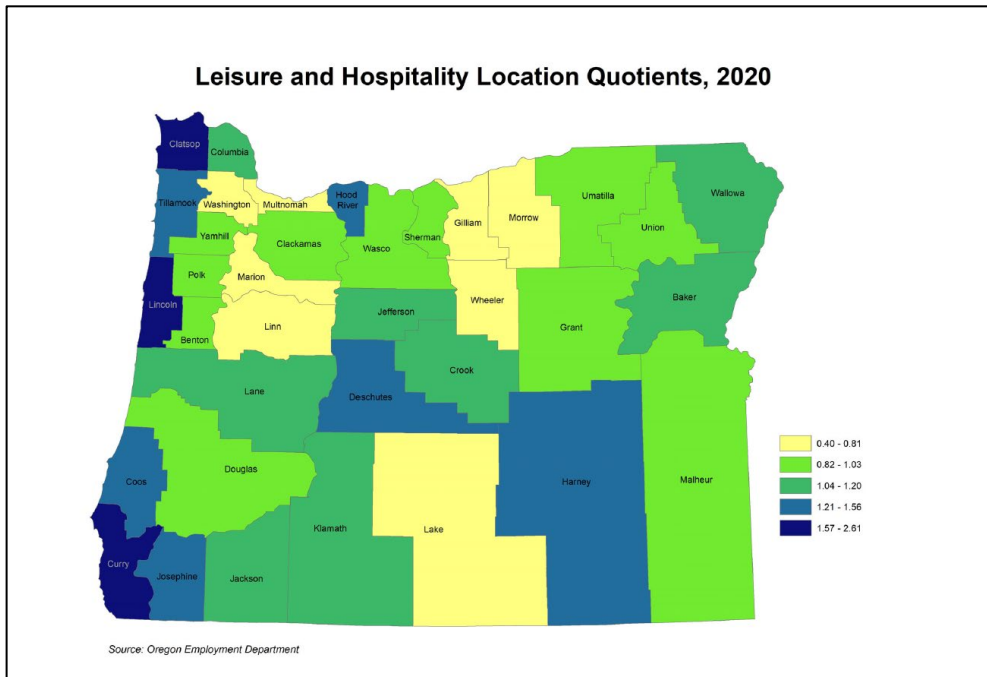
<sup>14</sup> <https://www.nationalparked.com/crater-lake/visitation-statistics>, accessed on 05/06/21.

<sup>15</sup> Oregon Employment Dept. (March 2021), <https://www.qualityinfo.org/-/oregon-s-leisure-and-hospitality-industry>

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

**Figure 1:** Leisure and hospitality quotients in Oregon counties. Source: Oregon Employment Department



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

None of the businesses regulated by the proposed rules are small businesses. DEQ confirmed this through a review of the US 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 rules because no small businesses are regulated by the proposed rules.

## Documents relied on for fiscal and economic impact

Document title	Document location
US Business Database	ReferenceUSA.com
Oregon Employment Department. Oregon Leisure and Hospitality Industry (Tauer, G., 2021)	<a href="https://www.qualityinfo.org/-/oregon-s-leisure-and-hospitality-industry">https://www.qualityinfo.org/-/oregon-s-leisure-and-hospitality-industry</a>
Four Factor Analysis Documents	<a href="https://www.oregon.gov/deq/aq/Pages/haze-ffa.aspx">https://www.oregon.gov/deq/aq/Pages/haze-ffa.aspx</a>
DEQ Fiscal Impact Statement, Cleaner Air Oregon Rulemaking	<a href="https://www.oregon.gov/deq/Rulemaking%20Docs/cao-pn2notice.pdf">https://www.oregon.gov/deq/Rulemaking%20Docs/cao-pn2notice.pdf</a>
Oregon Health Authority. Estimated medical treatment costs of chronic diseases, Oregon 2010	<a href="https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/CDCC_2010.pdf">https://www.oregon.gov/oha/PH/DISEASESCONDITIONS/CHRONICDISEASE/DATAREPORTS/Documents/datatables/CDCC_2010.pdf</a>
US Forest Service. National Visitor Use Monitoring System	<a href="https://apps.fs.usda.gov/nvum/results/A06022.aspx/FY2016">https://apps.fs.usda.gov/nvum/results/A06022.aspx/FY2016</a>
Environmental Protection Agency. Basic information about NO2.	<a href="https://www.epa.gov/no2-pollution/basic-information-about-no2#Effects">https://www.epa.gov/no2-pollution/basic-information-about-no2#Effects</a> .
Environmental Protection Agency. Health and Environmental Effects of Particulate Matter.	<a href="https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm">https://www.epa.gov/pm-pollution/health-and-environmental-effects-particulate-matter-pm</a> .
American Lung Association. Sulfur Dioxide.	<a href="https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/sulfur-dioxide">https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/sulfur-dioxide</a> .
Oregon Health Authority. Leading Causes of Death.	<a href="https://www.oregon.gov/OHA/PH/ABOUT/Documents/indicators/leadingcausesofdeath.pdf">https://www.oregon.gov/OHA/PH/ABOUT/Documents/indicators/leadingcausesofdeath.pdf</a>
Environmental pollutants and disease in American children: estimates of morbidity, mortality, and costs for lead poisoning, asthma, cancer, and developmental disabilities. Landrigan PJ, Schechter CB, Lipton JM, Fahs MC, Schwartz J.	J. Environ Health Perspect. 2002 July; 110(7):721-8.

## Advisory committee fiscal review

DEQ appointed a fiscal advisory committee.

As ORS 183.333 requires, DEQ asked for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact;
- The extent of the impact; and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and its findings are stated in the approved minutes dated May 17, 2021. Committee members generally agreed that the proposed rules will have a fiscal impact on large businesses that are Title V facilities to be regulated by these proposed rules. Committee members had differing opinions on the extent of the fiscal impact and multiple committee members stated that the draft fiscal impact statement did not contain sufficient information for committee members to formulate an opinion on the extent of fiscal impact. Multiple committee members stated that they would not expect the proposed rules to have a significant adverse impact on small business because the proposed rules only regulate Title V permitted sources. Multiple committee members stated they were uncertain if the proposed rules would have a significant adverse impact on small business or that the draft FIS did not include sufficient information to answer the question.

Additional highlights of the committee deliberations and comments are:

- Multiple committee members stated that the information that DEQ provided – a summary table of potential control technology and its cost ranges – is insufficient without information that reveals which facilities will install which controls.
- Some members stated DEQ hasn't provided sufficient information for the committee to determine extent of fiscal impact. One member stated, in order-of-magnitude numbers, the fiscal impact of the proposed rules is tens to hundreds of millions of dollars.
- Multiple committee members stated there is uncertainty about the extent of the fiscal impact and for whom that may be adverse. Members stated there is uncertainty whether or not a business that is not regulated, such as a permitted industry that is not Title V, would sustain any fiscal impact.
- Multiple committee members stated that the fiscal impact statement only addresses costs of controls at facilities, but doesn't address cost to the state economy and business potentially indirectly affected by the proposed rules – a “ripple” or “trickle down” effect.
- Multiple committee members stated that the companies to be regulated under the proposed rules are located in rural areas. Members stated that the millions of dollars for pollution control would otherwise be put into the local economy through plant expansions and improvements, thereby indirectly supporting small businesses in the area. One member recommended that DEQ contract with an economics firm to analyze the effects of the proposed rules on rural economies.
- Multiple members stated that among fiscal impacts, DEQ should consider associated public health benefits of the proposed rules, such as fewer asthma attacks and less exacerbation of chronic obstructive pulmonary disease.
- Some committee members stated that the fiscal impacts sustained by regulated industry would be disproportionate to the facilities' impacts on regional haze, as measured by visibility.

- One committee member stated that large businesses cannot always pass additional cost along to customers, particularly in a commodity market. Even within a large business, each individual facility, such as a mill, has to make a contribution and money spent on pollution control at the facility cuts into profit. The costs from the proposed rules may or may not cause the industry to shut down or sell an individual mill – those decisions would depend on the financial health of that mill.
- Multiple committee members encouraged fiscal impact assessment on a broader scope to encompass public health savings, watershed protection in national parks and wilderness, impacts on tourism, and health and economic benefit for people who live and work in the surrounding areas.
- One committee member stated that some pollution control measures, specifically SNCR and SCR, increase pollution in other media, require more electricity use, increase greenhouse gases from combustion, and add ammonia, a hazardous air pollutant. The committee member recommended that DEQ consider these greenhouse gas, electricity and hazardous air pollutants costs.
- One member stated that air quality and visibility has been studied extensively in the Columbia River Gorge National Scenic Area and large stationary sources as well as mobile sources are large contributors to haze.
- Multiple committee members stated that either there were no direct effects from the proposed rules on small businesses, since they were not regulated by the proposed rules, or that fiscal effects on small business were unclear. One committee member stated small business effects were indeterminate because DEQ had not provided a list of which facilities will be installing controls.
- One committee member stated that one way for DEQ to mitigate any potential effect on small business would be to compare Oregon’s regional haze screening procedures to those of surrounding states and comport with them.
- One committee member recommended that DEQ consider the benefits to small businesses that install and maintain pollution controls

DEQ allowed FAC members to submit additional information or written comments to DEQ by close of business on May 24, 2021. Three committee members submitted written comments.

Based on FAC deliberations and comments received, DEQ added the following information to the fiscal impact statement incorporated into this public notice:

- Acknowledged additive consultant and in-house costs for four factor analysis in Table 2.
- Added consultant fees to permitting costs in Table 4.
- Added a discussion to summarize potential environmental and energy costs of installing SNCR or SCR pollution controls.
- Attachment: Table A-1, Facilities regulated by the proposed rule based on the initial screening.
- Attachment: Table A-2, Facilities by category after initial screening.

## Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules 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. A memorandum<sup>18</sup> pertaining to a study conducted by the University of Oregon to support Oregon Department of Land Conservation and Development rulemaking describes the major factors influencing the cost of residential housing construction. Cost components include land, material and labor and regulatory costs such as permits, compliance with zoning requirements and system development charges.

DEQ acknowledges the proposed rules have the potential to affect housing development costs because some of the large businesses regulated by the proposed rules are in the lumber products industry or otherwise produce building materials. DEQ would not expect any increase in regulatory compliance costs for the lumber industry, over current compliance costs, to be significant enough to affect the cost of building materials. DEQ does not expect the proposed rules to have any effect on the major cost components of residential construction such as cost of land, labor, or permitting or zoning regulations.

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<sup>18</sup> University of Oregon, 2016. Cost Components of Housing. [https://www.oregon.gov/lcd/UP/Documents/UO-Cost\\_Components.pdf](https://www.oregon.gov/lcd/UP/Documents/UO-Cost_Components.pdf) accessed on 05/07/21.

## **Federal relationship**

The proposed rules add requirements additional to those in federal requirements. The proposed rules are exclusively applicable to Oregon's implementation of the federal Regional Haze Rule and implement Oregon statutes that authorize DEQ to regulate air pollutant emission sources.

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

DEQ considered one alternative, to modify certain Title V permits without codifying the round 2 regional haze screening process and compliance alternatives in rule. DEQ did not choose this alternative because DEQ would have been required to include modified permits in its SIP in order demonstrate federal enforceability. DEQ determined that the time required to modify permits and include them in the SIP would not meet the timeline of round 2 regional haze program implementation.



# Land use

## 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 state wide 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 rules involve 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 these proposed rules do not significantly affect land use under OAR 340-018-0030 or DEQ’s State Agency Coordination Program.

## EQC Prior Involvement

DEQ has presented progress on round 2 regional haze program implementation through informational items on the November 2019 and January 2021 EQC agendas.

# Advisory Committee

## Background

DEQ convened a FAC. The committee met on May 17, 2021 and deliberated on the fiscal impacts of the proposed rules. DEQ posted a summary and minutes from the committee's deliberations on the Regional Haze 2021 rulemaking website. DEQ includes a summary of the committee's deliberation and recommendations in the Statement of Fiscal and Economic Impact section of this notice.

The committee members were:

<b>Regional Haze 2021 Division 223 Rulemaking Fiscal Advisory Committee</b>	
<b>Name</b>	<b>Representing</b>
Caleb Minthorn – alternate	Confederated Tribes of the Umatilla Indian Reservation
Russell Strader	Industry (Boise Cascade)
Chad Darby	Industry (consulting)
Kathryn Van Natta	Industry (Northwest Pulp & Paper Assoc.)
Daniel Orozco	Environmental advocacy (National Parks Conservation Association)
Joshua Jenkins - alternate	Environmental advocacy (National Parks Conservation Association)
Michael Lang	Environmental advocacy (Friends of the Gorge)
Jamie Pang	Environmental, Public Health advocacy (Oregon Environmental Council)
Carrie Nyssen	Public Health advocacy (American Lung Association)
Bob Hackett	Tourism sector (Travel Southern Oregon)

## Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
  - Rulemaking
  - Air Quality Permits
  - Regional Haze
- Added advisory committee announcements to DEQ's calendar of public meetings at [DEQ Calendar](#).
- Provided notice of meetings and links to committee information through postings on Facebook and Twitter.

## **Committee discussions**

The committee's recommendations are described under the Statement of Fiscal and Economic Impact section of this notice.

# Public Engagement

## Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On May 28, 2021, filing notice with the Oregon Secretary of State for publication in the June 2021 Oregon Bulletin;
- Notifying the EPA by mail;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Regional Haze 2021](#);
- Emailing approximately 22,557 interested parties on the following DEQ lists through GovDelivery:
  - Rulemaking
  - DEQ Public Notices
  - Air Quality Permits
  - Regional Haze
- Emailing the following key legislators required under [ORS 183.335](#):
  - Senate President Peter Courtney
  - Senator Lee Beyer
  - House Speaker Tina Kotek
  - Representative Pam Marsh
- Emailing advisory committee members
- Posting on the DEQ event calendar: [DEQ Calendar](#)

## How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone may submit comments and questions about this rulemaking. A person may submit comments by email, by regular mail or at the public hearing.

### Comment deadline

The deadline to submit comments is 4 p.m. PST, on Wednesday, June 30, 2021. DEQ will only consider comments on the proposed rules that DEQ receives by that date and time.

### Submit comments by email to:

[RHSIP2021@deq.state.or.us](mailto:RHSIP2021@deq.state.or.us)

### Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law unless the public interest requires otherwise. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

### By mail

Oregon DEQ  
Attn: Karen F. Williams

700 NE Multnomah St., Room 600  
Portland, OR 97232-4100

### **At hearing**

Date: Monday, June 28, 2021

Start time: 5:30 p.m.

Remote meeting held via Zoom

Webinar [link](#)

Join by phone

Call-in number: 1-253-215-8782

Meeting ID: 838 7011 9414

Meeting Password: 243020

Instructions on how to join webinar or teleconference: [Webinar/teleconference instructions](#)

### **Accessibility Information**

You may review copies of all documents referenced in this announcement electronically. To schedule a review of all websites and documents referenced in this announcement, call Karen F. Williams, DEQ (503-863-1664).

Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format, or any other arrangements necessary to accommodate a disability. To make these arrangements, contact DEQ, Portland, at 503-229-5696 or call toll-free in Oregon at 1-800-452-4011, ext. 5696; fax to 503-229-6762; or email to [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us). Hearing impaired persons may call 711.

## Supporting documents

- Attachment: Table A-1, Facilities regulated by the proposed rule based on initial screening.
- Attachment: Table A-2, Facilities by category after initial screening.

Attachment Table A-1: Facilities regulated by the proposed rule based on initial screening.

Agency Facility ID	Facility Name	Permit	Fac State	Operating Status	EIS Facility ID	CIA Name	Distance (km)	Actual Emissions (tons per year)					PSEL (tons per year)					
								NOX	PM10	SO2	Q	Q/d	NOX	PM10	SO2	Q(tpy)	Q/d	EmissYear
25-0016	PGE Boardman	TV	OR	Active	8171111	Mount Hood Wilderness	142.6	1768.12	387.75	3297.87	5454	38.24	5961	1086	9525	16572	116.21	2017
208850	INTERNATIONAL PAPER	TV	OR	Active		Three Sisters Wilderness	58.9	724.02	181.39	67.64	973	16.51	1692	750	1521	3963	67.24	
05-1849	A Division of Cascades Holding US Inc.	TV	OR	Active	7219311	Mount Hood Wilderness	87.7	244.40	14.53	6.10	265	3.02	1449	738	3400	5587	63.72	2017
01-0029	Ash Grove Cement Company	TV	OR	Active	7219011	Eagle Cap Wilderness	51.9	788.00	140.82	33.10	962	18.54	1778	176	42	1996	38.47	2017
05-2520	Beaver Plant/Port Westward I Plant	TV	OR	Active	7393911	Mount Hood Wilderness	133.3	359.22	62.19	9.85	431	3.24	3776	241	595	4612	34.60	2017
10-0025	Roseburg Forest Products - Dillard	TV	OR	Active	8219211	Kalmiopsis Wilderness	81.8	1006.94	479.24	73.52	1560	19.07	1655	743	110	2508	30.67	2017
04-0004	Georgia Pacific- Wauna Mill	TV	OR	Active	8055711	Mount Hood Wilderness	145.5	1037.66	775.80	539.82	2353	16.18	2139	1077	913	4129	28.38	2017
03-2145	West Linn Paper Company	TV	OR	Active	8417511	Mount Hood Wilderness	53.7	186.13	14.99	2.72	204	3.79	597	82	743	1422	26.46	2017
22-3501	Halsey Pulp Mill	TV	OR	Active	7394911	Three Sisters Wilderness	80.4	352.06	278.81	80.92	712	8.86	687	366	851	1904	23.69	2017
26-1876	Owens-Brockway Glass Container Inc.	TV	OR	Active	8520811	Mount Hood Wilderness	55.1	403.65	76.15	118.07	598	10.86	711	132	313	1156	21.00	2017
21-0005	Georgia-Pacific- Toledo	TV	OR	Active	8418611	Three Sisters Wilderness	147.0	939.11	195.76	16.07	1151	7.83	1351	799	839	2989	20.33	2017
18-0096	Gas Transmission NW - Compressor Station #13	TV	OR	Active	7393311	Crater Lake NP	14.1	29.40	2.08	1.47	33	2.34	224	14	39	277	19.68	2017
31-0002	Particleboard	TV	OR	Active	7298311	Eagle Cap Wilderness	25.0	305.10	25.49	2.38	333	13.32	379	42	39	460	18.41	2017
18-0003	Klamath Cogeneration Proj	TV	OR	Active	9223711	Mountain Lakes Wilderness	24.4	143.00	19.56	6.40	169	6.91	314	48	39	401	16.40	2017
18-0005	Interfor Gilchrist	TV	OR	Active	8518711	Diamond Peak Wilderness	22.3	60.15	125.28	2.31	188	8.42	104	208	39	351	15.74	2017
31-0006	Elgin Complex	TV	OR	Active	8170611	Eagle Cap Wilderness	18.1	128.15	41.10	13.01	182	10.08	171	62	39	272	15.04	2017
01-0038	Baker Compressor Station	TV	OR	Active	7219111	Eagle Cap Wilderness	40.2	158.48	1.97	1.17	162	4.02	542	14	39	595	14.81	2017
12-0032	Ochoco Lumber Company	ACDP - Standard	OR	Active		Strawberry Mountain Wilderness	8.5						50	31	39	120	14.19	PSEL
09-0084	Compressor Station 12	TV	OR	Active	7410011	Three Sisters Wilderness	30.4	63.60	4.62	2.56	71	2.33	377	14	39	430	14.13	2017
302847	Oregon City Compressor Station	TV	OR	Active	8417911	Mount Hood Wilderness	43.8	156.66	1.72	1.02	159	3.64	536	16	39	591	13.49	2017
08-0003	Pacific Wood Laminates, Inc.	TV	OR	Active	8416611	Kalmiopsis Wilderness	23.5	52.50	139.12	3.27	195	8.29	76	189	29	294	12.50	2017
26-1865	EVRAZ Inc. NA	TV	OR	Active	8521611	Mount Hood Wilderness	73.1	139.40	118.74	3.27	261	3.57	493	340	39	872	11.92	2017
18-0013	Collins Products, L.L.C.	TV	OR	Active	7219711	Mountain Lakes Wilderness	23.6	6.85	105.89	0.03	113	4.78	39	166	50	255	10.82	2017
15-0159	Biomass One, L.P.	TV	OR	Active	8056211	Mountain Lakes Wilderness	56.4	239.00	15.57	14.32	269	4.77	469	48	39	556	9.86	2017
15-0073	Roseburg Forest Products- Medford MDF	TV	OR	Active	8056111	Mountain Lakes Wilderness	59.5	131.16	36.24	5.94	173	2.91	272	215	39	526	8.84	2017
18-0014	Columbia Forest Products, Inc.	TV	OR	Active	8186211	Mountain Lakes Wilderness	24.6	43.19	57.16	0.73	101	4.10	65	87	39	191	7.75	2017
15-0004	Boise Cascade- Medford	TV	OR	Active	8418111	Mountain Lakes Wilderness	60.6	113.42	125.26	15.00	254	4.19	227	167	31	425	7.02	2017
10-0045	Swanson Group Mfg. LLC	TV	OR	Active	8004811	Kalmiopsis Wilderness	48.8	55.24	144.76	2.99	203	4.16	80	193	39	312	6.39	2017
18-0006	dba JELD-WEN	TV	OR	Active	7219611	Mountain Lakes Wilderness	21.1	26.59	16.78	1.58	45	2.13	67	27	39	133	6.30	2017
15-0025	Timber Products Co. Limited Partnership	TV	OR	Active	8054711	Mountain Lakes Wilderness	59.4	69.18	25.21	2.43	97	1.63	162	159	39	360	6.07	2017
10-0078	Roseburg Forest Products- Riddle Plywood	TV	OR	Active	8005011	Kalmiopsis Wilderness	68.9	79.49	50.16	15.13	145	2.10	199	127	39	365	5.29	2017
204402	KINGSFORD MANUFACTURING COMPANY	TV	OR	Active		Three Sisters Wilderness	61.0	289.12	177.59	44.1	511	8.38						

Last updated 1/10/2020

**Attachment Table A – 2: Facilities by category after initial screening.**

Facility ID	Facility Name	Actual Q/d	2017 PSEL Q/d	FFA key	Description
25-0016	PGE Boardman	38.24	116.21	0	No FFA. Facility shut down coal-fired operations, Carty GS, Q/d << 5.00
01-0029	Ash Grove Cement Company	18.54	38.47	1	No FFA, 2013 consent decree with EPA = max controls.
204402	Kingsford Manufacturing Company	8.38		2	No FFA - lowered PSEL to Q/d < 5.00
05-1849	Cascades Tissue Group: A Division of Cascades Holding US Inc.	3.02	63.72	2	No FFA - lowered PSEL to Q/d < 5.00.
15-0025	Timber Products Co. Limited Partnership	1.63	6.07	2	No FFA - lowered PSEL to Q/d < 5.00.
05-2520	PGE Beaver Plant/Port Westward I Plant	3.24	34.6	2	No FFA - Will lower PSEL to Q/d < 5.00 by 2025.
10-0078	Roseburg Forest Products - Riddle Plywood	2.1	5.29	2	No FFA, PSEL Q/d < 5.00
15-0073	Roseburg Forest Products - Medford MDF	2.91	8.84	2	No FFA, Q/d < 5.00
18-0003	Klamath Energy LLC – Klamath Cogeneration Proj	6.91	16.4	2	No FFA - lowered PSEL to Q/d < 5.00
08-0003	Pacific Wood Laminates, Inc.	8.29	12.5	3	FFA - no controls <\$10K, no further action.
10-0045	Swanson Group Mfg. LLC	4.16	6.39	3	FFA - no controls <\$10K, no further action.
12-0032	Ochoco Lumber Company	4.60	14.19	3	FFA - no controls <\$10K, no further action.
18-0014	Columbia Forest Products, Inc.	4.1	7.75	3	FFA - no controls <\$10K, no further action
18-0013	Collins Products, L.L.C.	4.78	10.82	3	FFA - no controls <\$10K, no further action.
31-0002	Woodgrain Millwork LLC - Particleboard	13.32	18.41	3	FFA - no controls <\$10K, no further action.
26-1876	Owens-Brockway Glass Container Inc.	10.86	21	4	FFA - found controls reasonable.
18-0005	Gilchrist Forest Products	8.42	15.74	4	FFA - found controls reasonable.
31-0006	Boise Cascade Wood Products, LLC - Elgin Complex	10.08	15.04	5	FFA -Step 2. More detailed controls analysis
04-0004	Georgia Pacific - Wauna Mill	16.18	28.38	5	FFA -Step 2. More detailed controls analysis
22-3501	Cascade Pacific Pulp, LLC - Halsey Pulp Mill	8.86	23.69	5	FFA -Step 2. More detailed controls analysis
15-0004	Boise Cascade Wood Products, LLC - Medford	4.19	7.02	5	FFA -Step 2. More detailed controls analysis
09-0084	Gas Transmission Northwest LLC - Compressor Station 12	2.33	14.13	5	FFA -Step 2. More detailed controls analysis
18-0096	Gas Transmission Northwest LLC - Compressor Station 13	2.34	19.68	5	FFA -Step 2. More detailed controls analysis
208850	International Paper - Springfield	16.51	67.24	5	FFA -Step 2. More detailed controls analysis
21-0005	Georgia-Pacific – Toledo LLC	7.83	20.33	5	FFA -Step 2. More detailed controls analysis



<b>Facility ID</b>	<b>Facility Name</b>	<b>Actual Q/d</b>	<b>2017 PSEL Q/d</b>	<b>FFA key</b>	<b>Description</b>
01-0038	Northwest Pipeline LLC - Baker Compressor Station	4.02	14.81	5	FFA -Step 2. More detailed controls analysis
03-2729	Northwest Pipeline LLC - Oregon City Compressor Station	3.64	13.49	5	FFA -Step 2. More detailed controls analysis
26-1865	EVRAZ Inc. NA	3.57	11.92	5	FFA -Step 2. More detailed controls analysis
15-0159	Biomass One, L.P.	4.77	9.86	5	FFA -Step 2. More detailed controls analysis
10-0025	Roseburg Forest Products - Dillard	19.07	30.67	5	FFA -Step 2. More detailed controls analysis
18-0006	JELD-WEN	2.13	6.3	5	FFA -Step 2. More detailed controls analysis
03-2145	Willamette Falls Paper Company	3.79	26.46	5	FFA -Step 2. More detailed controls analysis



State of Oregon Department of Environmental Quality

## Draft Rules – Edits Highlighted

### Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

### Division 200

### GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

#### 340-200-0040

#### State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR 340 division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on ~~January 21~~July 22-23, 2021.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and

(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.

(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.

**Statutory/Other Authority:** 468A & ORS 468.020

**Statutes/Other Implemented:** ORS 468A.035 & 468A.135

**History:**

[DEQ 1-2021, amend filed 01/21/2021, effective 01/21/2021](#)  
[DEQ 21-2020, amend filed 11/19/2020, effective 11/19/2020](#)  
[DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020](#)  
[DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019](#)  
[DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019](#)  
[DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019](#)  
[DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018](#)  
[DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018](#)  
[DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018](#)  
[DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018](#)  
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DEQ 1-2014, f. & cert. ef. 1-6-14  
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DEQ 11-2013, f. & cert. ef. 11-7-13  
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DEQ 5-2010, f. & cert. ef. 5-21-10  
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DEQ 5-2002, f. & cert. ef. 5-3-02  
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DEQ 16-2001, f. & cert. ef. 12-26-01  
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DEQ 17-2000, f. & cert. ef. 10-25-00  
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DEQ 7-1992, f. & cert. ef. 3-30-92  
DEQ 3-1992, f. & cert. ef. 2-4-92  
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## **Division 223 REGIONAL HAZE RULES**

### **340-223-0010**

#### **Purpose**

OAR 340-223-0020 through 340-223-0080~~130~~ establish [the process and criteria for identifying reductions of pollutants from stationary sources that reduce visibility and contribute to regional haze in Class I areas, for the purpose of maintaining reasonable progress and other requirements associated with Oregon’s implementation of the federal regional haze rule in 40 CFR 51.308 \(2017\)](#)~~requirements for certain sources emitting air pollutants that reduce visibility and contribute to regional haze in Class I areas, for the purpose of implementing Best Available Retrofit Technology (BART) requirements and other requirements associated with the federal Regional Haze Rules in 40 CFR § 51.308, as in effect on December 9, 2010.~~

[\[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.\]](#)

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

#### **History:**

DEQ 14-2010, f. & cert. ef. 12-10-10

DEQ 3-2009, f. & cert. ef. 6-30-09

### **340-223-0020**

#### **Definitions**

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule [takes precedence](#)~~applies to this division.~~

(1)~~“BART-eligible source” means any source determined by the Department to meet the criteria for a BART-eligible source established in Appendix Y to 40 CFR Part 51, “Guidelines for BART Determinations Under the Regional Haze Rule”, and in accordance with the federal Regional~~

~~Haze Rules under 40 CFR § 51.308(e), as in effect on December 9, 2010~~ "Emissions unit" means any part or activity of a source that emits or has the potential to emit more than 20 tons of any single or combination of round II regional haze pollutants.

~~(2) "Best Available Retrofit Technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source or unit, the remaining useful life of the source or unit, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.~~ "Round II regional haze pollutants" means the pollutants DEQ has identified in round II of regional haze that contribute to visibility impacts in Class I areas, which are sulfur dioxide, particulate matter of a nominal diameter of 10 microns or less, and nitrogen oxides.

~~(3) "Deciview" means a measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements):~~

$$\text{Deciview haze index} = 10 \ln(\text{bext}/10 \text{ Mm}^{-1})$$

~~Where bext= the atmospheric light extinction coefficient, expressed in inverse megameters (Mm<sup>-1</sup>)~~

~~1) "Round II of regional haze" means the combination of information collection, technical demonstrations, control strategies, commitments, rules, orders, and any other actions that make up DEQ's development and implementation of the 2018 through 2028 long-term strategy for reducing haze in Oregon's Class I areas that will be submitted or that have been submitted to EPA as part of the state implementation plan.~~

~~[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]~~

~~[NOTE: View a PDF of Appendix Y to 40 C.F.R. Part 51 by clicking on "Tables" link below.]~~

~~[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]~~

~~(4) "Dry sorbent injection pollution control system" means a pollution control system that reduces sulfur dioxide emissions by combining a dry alkaline reagent directly with the boiler exhaust gas stream to enable the reagent to adsorb sulfur dioxide and be collected by the existing electrostatic precipitator.~~

~~(5) “Subject to BART” means a BART-eligible source that based on air quality dispersion modeling causes visibility impairment equal to or greater than 0.5 deciview in any Class I area, at the 98th percentile for both a three-year period and one-year period.~~

~~(6) “Ultra-low sulfur coal” means coal that contains no more than 0.25 lb sulfur/mmBtu heat input on average.~~

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

DEQ 14-2010, f. & cert. ef. 12-10-10

DEQ 3-2009, f. & cert. ef. 6-30-09

**340-223-0030**

**~~BART Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106)~~**

~~(1) Emissions limits:~~

~~(a) Between July 1, 2011 and December 31, 2020, nitrogen oxide emissions must not exceed 0.23 lb/mmBtu heat input as a 30-day rolling average, provided that:~~

~~(A) If the source submitted a complete application for construction and/or operation of pollution control equipment to satisfy the emissions limit in subsection (1)(a) at least eight months prior to the compliance date of July 1, 2011, and the Department has not approved or denied the application by the compliance date, the compliance date is extended until the Department approves or disapproves the application, but may not be extended to a date more than five years from the date that the United States Environmental Protection Agency approves a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR 340-223-0030; and~~

~~(B) If it is demonstrated by December 31, 2011 that the emissions limit in subsection (1)(a) cannot be achieved with combustion controls, the Department by order may grant an extension of compliance to July 1, 2013.~~

~~(b) Except as provided in section (3) below:~~

~~(A) Between July 1, 2014 and June 30, 2018, sulfur dioxide emissions must not exceed 0.40 lb/mmBtu heat input as a 30-day rolling average; and~~

~~(B) Between July 1, 2018 and December 31, 2020, sulfur dioxide emissions must not exceed 0.30 lb/mmBtu heat input as a 30-day rolling average.~~

~~(c) Between July 1, 2014 and December 31, 2020, particulate matter emissions must not exceed 0.040 lb/mmBtu heat input as determined by compliance source testing.~~



~~(d) During periods of startup and shutdown, the following emissions limits apply instead of the limits in subsections (a) through (c):~~

~~(A) Sulfur dioxide emissions must not exceed 1.20 lb/mmBtu, as a 3-hour rolling average;~~

~~(B) Nitrogen oxide emissions must not exceed 0.70 lb/mmBtu, as a 3-hour rolling average; and~~

~~(C) Particulate matter emissions must be minimized to extent practicable pursuant to approved startup and shutdown procedures in accordance with OAR 340-214-0310.~~

~~(e) The Foster-Wheeler boiler at the source must permanently cease burning coal by no later than December 31, 2020. Notwithstanding the definition of netting basis in OAR 340-200-0020, and the process for reducing plant site emission limits in OAR 340-222-0043, the netting basis and PSEs for the boiler are reduced to zero upon the date on which the boiler permanently ceases burning coal, and prior to that date the netting basis and PSEs for the boiler apply only to physical changes or changes in the method of operation of the source for the purpose of complying with emission limits applicable to the boiler.~~

~~(2) Studies to evaluate compliance with the sulfur dioxide emissions limits in paragraphs (1)(b)(A)–(B), and the potential side effects of compliance with those limits, if required by section (3), must be completed as follows:~~

~~(a) A plan to evaluate the sulfur dioxide emissions limit in paragraph (1)(b)(A) must be submitted for Department approval by July 1, 2011, and the results of the evaluation must be submitted to the Department by July 1, 2013;~~

~~(b) A plan to evaluate the sulfur dioxide emissions limit in paragraph (1)(b)(B) must be submitted for Department approval by July 1, 2015, and the results of the evaluation must be submitted to the Department by July 1, 2017; and~~

~~(c) Each study pursuant to this section (2) must:~~

~~(A) Evaluate whether a dry sorbent injection pollution control system is technically infeasible, will prevent compliance with mercury emissions limits under OAR 340-228-0606, or cause a significant air quality impact (as that term is defined in 340-200-0020) for PM10 or PM2.5;~~

~~(B) Evaluate a range of commercially available sorbent materials that could be used in a dry sorbent injection pollution control system to reduce sulfur dioxide emissions;~~

~~(C) Evaluate the potential for significant air quality impacts for PM10 or PM2.5 as follows:~~

~~(i) Perform modeling consistent with the requirements of OAR 340-225-0050(1) with screening meteorological data containing conservative meteorological assumptions; or~~

~~(ii) If modeling with screening meteorological data pursuant to subparagraph (i) demonstrates that significant air quality impacts for PM10 or PM2.5 will occur, perform modeling with site~~

~~specific meteorological data obtained from the installation of a meteorological monitoring station, including one year of monitoring data for each study. The meteorological monitoring station must be installed, certified, operated and maintained, and the output of the meteorological monitoring station must be recorded, in accordance with a plan approved by the Department;~~

~~(D) Evaluate the use of other sulfur dioxide pollution control systems of equal or lower cost as a dry sorbent injection pollution control system, including but not limited to the use of ultra-low sulfur coal, if the study demonstrates that the use of a dry sorbent injection pollution control system is technically infeasible, will prevent compliance with mercury emissions limits under OAR 340-228-0606, or will cause a significant air quality impact (as that term is defined in OAR 340-200-0020) for PM10 or PM2.5; and~~

~~(E) If applicable, propose an emissions limit for sulfur dioxide based on a 30-day rolling average that exceeds the limits listed in paragraphs (1)(b)(A)–(B), based upon the reduction of sulfur dioxide emissions to the maximum extent feasible through the use of a dry sorbent injection pollution control system or another sulfur dioxide pollution control system of equal or lower cost, including but not limited to the use of ultra-low sulfur coal, provided that the emissions limit may not exceed 0.55 lb/mmBtu heat input as a 30-day rolling average.~~

~~(3) Between July 1, 2014 and December 31, 2020, sulfur dioxide emissions may exceed the limit listed in paragraph (1)(b)(A) or (B), or both, if:~~

~~(a) Studies have been submitted pursuant to section (2);~~

~~(b) Compliance with the applicable emissions limit or limits would:~~

~~(A) Be technically infeasible;~~

~~(B) Prevent compliance with mercury emissions limits under OAR 340-228-0606; or~~

~~(C) Cause a significant air quality impact, as that term is defined in OAR 340-200-0020, for PM10 or PM2.5;~~

~~(c) Sulfur dioxide emissions are otherwise reduced to the maximum extent feasible as described in subsection (2)(c); and~~

~~(d) The source's Oregon Title V Operating Permit is modified to include a federally enforceable permit limit reflecting the requirements of subsection (2)(c), prior to the compliance date for the sulfur dioxide emissions limit in paragraph (1)(b)(A) or (B) that will be exceeded; provided that if the source's Oregon Title V Operating Permit has not been modified prior to the applicable compliance date, sulfur dioxide emissions may exceed the emissions limit in paragraph (1)(b)(A) or (B) if the source submitted a complete application to modify its Oregon Title V Operating Permit at least eight months prior to the applicable compliance date and sulfur dioxide emissions do not exceed the emissions limit proposed in its application (which may not exceed 0.55 lb/mmBtu heat input as a 30-day rolling average).~~

~~(4) Compliance demonstration. Using the procedures specified in section (5) of this rule:~~

~~(a) Compliance with a 30-day rolling average limit must be demonstrated within 180 days of the compliance date specified in section (1) of this rule; and~~

~~(b) Compliance with any 30-day rolling average limit for sulfur dioxide that may be established pursuant to subsection (3)(c) must be demonstrated within 180 days of the compliance date for the limit in paragraph (1)(b)(A) or (B) that is superseded by the emissions limit established pursuant to subsection (3)(c).~~

~~(5) Compliance Monitoring and Testing.~~

~~(a) Compliance with the emissions limits in subsections (1)(a), (b) and (d)(A) (B), and with any emissions limit for sulfur dioxide that may be established pursuant to subsection (3)(c), must be determined with a continuous emissions monitoring system (CEMS) installed, operated, calibrated, and maintained in accordance with the acid rain monitoring requirements in 40 CFR Part 75 as in effect on December 9, 2010.~~

~~(A) The hourly emissions rate in terms of lb/mmBtu heat input must be recorded each operating hour, including periods of startup and shutdown.~~

~~(B) The daily average emissions rate must be determined for each boiler operating day using the hourly emissions rates recorded in (A), excluding periods of startup and shutdown.~~

~~(C) 30-day rolling averages must be determined using all daily average emissions rates recorded in (B) whether or not the days are consecutive.~~

~~(D) The daily average emission rate is calculated for any calendar day in which the boiler combusts any fuel. An operating hour means a clock hour during which the boiler combusts any fuel, either for part of the hour or for the entire hour.~~

~~(b) Compliance with the particulate matter emissions limit in subsection (1)(c) must be determined by EPA Methods 5 and 19 as in effect on December 9, 2010.~~

~~(A) An initial particulate matter source test must be conducted by January 1, 2015.~~

~~(B) Subsequent tests must be conducted in accordance with a schedule specified in the source's Oregon Title V Operating Permit, but not less than once every 5 years.~~

~~(C) All testing must be performed in accordance with the Department's Source Sampling Manual as in effect on December 9, 2010. [NOTE: DEQ manuals are published with OAR 340-200-0035.]~~

~~(6) Notifications and Reports.~~

~~(a) The Department must be notified in writing within 7 days after any control equipment (including combustion controls) used to comply with emissions limits in section (1), and with any emissions limit for sulfur dioxide that may be established pursuant to subsection (3)(c), begins operation.~~

~~(b) For nitrogen oxide and sulfur dioxide emissions limits in section (1) based on a 30-day rolling average, a compliance status report, including CEMS data, must be submitted within 180 days of the compliance dates specified in section (1).~~

~~(c) For any sulfur dioxide emissions limit that may be established pursuant to subsection (3)(c), a compliance status report, including CEMS data, must be submitted within 180 days of the compliance date for the limit in paragraph (1)(b)(A) or (B) that is superseded by the emissions limit established pursuant to subsection (3)(c).~~

~~(d) For particulate matter, a compliance status report, including a source test report, must be submitted within 60 days of completing the initial compliance test and all subsequent tests as specified in subsection (5)(b).~~

~~(e) The Department must be notified in writing within 7 days of the date upon which the boiler permanently ceases burning coal.~~

~~(7) The following provisions of this rule constitute BART requirements for the Foster Wheeler Boiler: subsection (1)(a), paragraph (1)(b)(A), subsections (1)(c) – (e), (2)(a) and (2)(c), and sections (3) – (6).~~

~~(8) The following provisions of this rule constitute additional requirements pursuant to the federal Regional Haze Rules under 40 CFR § 51.308(e) for the Foster Wheeler Boiler: paragraph (1)(b)(B), subsections (2)(b) and (2)(c), and sections (3) – (6).~~

~~[NOTE: View a PDF of EPA Methods by clicking on "Tables" link below.]~~

~~[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]~~

~~**Statutory/Other Authority:** ORS 468 & 468A~~

~~**Statutes/Other Implemented:** ORS 468A.025~~

~~**History:**~~

~~DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019~~

~~DEQ 14-2010, f. & cert. ef. 12-10-10~~

~~DEQ 3-2009, f. & cert. ef. 6-30-09~~

### ~~**340-223-0040**~~

#### ~~**Federally Enforceable Permit Limits**~~

~~(1) A BART-eligible source that would be subject to BART may accept a federally enforceable permit limit or limits that reduces the source's emissions and prevents the source from being subject to BART.~~

~~(2) Any BART-eligible source that accepts a federally enforceable permit limit or limits as described in section (1) to prevent the source from being subject to BART, and that subsequently proposes to terminate its federally enforceable permit limit or limits, and that as a result will increase its emissions and become subject to BART, must submit a BART analysis to the Department and install BART as determined by the Department prior to terminating the federally enforceable permit limit or limits.~~

~~(3) The Foster-Wheeler boiler at The Amalgamated Sugar Company plant in Nyssa, Oregon (Title V permit number 23-0002) is a BART-eligible source, and air quality dispersion modeling demonstrates that it would be subject to BART while operating. However, it is not operating as of December 9, 2010, and therefore is not subject to BART. Prior to resuming operation, the owner or operator of the source must either:~~

~~(a) Submit a BART analysis and install BART as determined by the Department by no later than five years from the date that the United States Environmental Protection Agency approves a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR chapter 340, division 223, or before resuming operation, whichever is later; or~~

~~(b) Obtain and comply with a federally enforceable permit limit or limits assuring that the source's emissions will not cause the source to be subject to BART.~~

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**

DEQ 14-2010, f. & cert. ef. 12-10-10

DEQ 3-2009, f. & cert. ef. 6-30-09

### **340-223-0050**

#### **Alternative Regional Haze Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106)**

~~(1) The owner and operator of the Foster-Wheeler boiler at the Boardman coal-fired power plant may elect to comply with OAR 340-223-0060 and 340-223-0070, or with 340-223-0080, in lieu of complying with OAR 340-223-0030, if the owner or operator provides written notification to the Director by no later than July 1, 2014. The written notification must identify which rule of the two alternatives the owner or operator has chosen to comply with. The owner or operator may not change its chosen method of compliance after July 1, 2014.~~

~~(2) Compliance with OAR 340-223-0080 in lieu of complying with 340-223-0030 is allowed only if the Foster-Wheeler boiler at the Boardman coal-fired power plant permanently ceases to burn coal within five years of the approval by the United States Environmental Protection Agency (EPA) of the revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR chapter 340, division 223. If the boiler has not permanently ceased burning coal by that date, the owner and operator shall be liable for violating OAR 340-223-0030 for each day beginning July 1, 2014 on which the owner or operator did not comply with OAR 340-223-0030. This liability shall include, but is not limited to, civil penalties pursuant to OAR~~

chapter 340, division 12, which includes penalties for the economic benefit of operating the facility without the required pollution controls.

~~(3) If, by December 31, 2011, the EPA fails to approve a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR 340-223-0030 (concerning BART requirements based upon permanently ceasing the burning of coal in the Foster Wheeler Boiler by December 31, 2020), or 340-223-0060 and 340-223-0070, then the compliance date of July 1, 2014 in 340-223-0060(2)(b) and (c) (sulfur dioxide and particulate matter emissions limits) is delayed until three years from the date of EPA approval.~~

~~(4) Notwithstanding sections (1) and (3), if the EPA approves a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR 340-223-0030 (concerning BART requirements based upon permanently ceasing the burning of coal in the Foster Wheeler Boiler by December 31, 2020), then OAR 340-223-0060 and 340-223-0070 are repealed, compliance with 340-223-0060 and 340-223-0070 in lieu of complying with 340-223-0030 is no longer an alternative, and compliance with 340-223-0030 or 340-223-0080 is required.~~

NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.

~~Statutory/Other Authority: ORS 468 & 468A~~

~~Statutes/Other Implemented: ORS 468A.025~~

~~History:~~

~~DEQ 14-2010, f. & cert. ef. 12-10-10~~

~~DEQ 3-2009, f. & cert. ef. 6-30-09~~

**340-223-0060**

**Alternative BART Requirements for the Foster Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106) Based Upon Operation Until 2040 or Beyond**

~~(1) Subject to OAR 340-223-0050, the owner or operator of the Foster Wheeler boiler at the Boardman coal-fired power plant may elect to comply with this rule and 340-223-0070 in lieu of compliance with OAR 340-223-0030.~~

~~(2) Emissions limits:~~

~~(a) On and after July 1, 2011, nitrogen oxide emissions must not exceed 0.28 lb/mmBtu heat input as a 30-day rolling average and 0.23 lb/mmBtu heat input as a 12-month rolling average.~~

~~(A) If it is demonstrated by July 1, 2012 that the emissions limits in (a) cannot be achieved with combustion controls, the Department may grant an extension of compliance to July 1, 2014.~~

~~(B) If an extension is granted, on and after July 1, 2014 the nitrogen oxide emissions must not exceed 0.19 lb/mm Btu heat input as a 30-day rolling average, and the emissions limits of 0.28~~

~~lb/mmBtu heat input as a 30-day rolling average and 0.23 lb/mmBtu heat input as a 12-month rolling average no longer apply.~~

~~(b) On and after July 1, 2014, sulfur dioxide emissions must not exceed 0.12 lb/mmBtu heat input as a 30-day rolling average.~~

~~(c) On and after July 1, 2014, particulate matter emissions must not exceed 0.012 lb/mmBtu heat input as determined by compliance source testing.~~

~~(d) During periods of startup and shutdown, the following emissions limits apply instead of the limits in subsections (2)(a) through (c):~~

~~(A) Sulfur dioxide emissions must not exceed 1.20 lb/mmBtu, as a 3-hour rolling average;~~

~~(B) Nitrogen oxide emissions must not exceed 0.70 lb/mmBtu, as a 3-hour rolling average; and~~

~~(C) Particulate matter emissions must be minimized to extent practicable pursuant to approved startup and shutdown procedures in accordance with OAR 340-214-0310.~~

~~(3) Compliance demonstration. Using the procedures specified in section (4) of this rule:~~

~~(a) Compliance with a 30-day rolling average limit must be demonstrated within 180 days of the compliance date specified in section (2) of this rule.~~

~~(b) Compliance with a 12-month rolling average must be demonstrated within 12 months of the compliance date specified in section (2) of this rule.~~

~~(4) Compliance Monitoring and Testing.~~

~~(a) Compliance with the emissions limits in (2)(a), (b) and (d)(A)-(B) must be determined with a continuous emissions monitoring system (CEMS) installed, operated, calibrated, and maintained in accordance with the acid rain monitoring requirements in 40 CFR Part 75 as in effect on December 9, 2010.~~

~~(A) The hourly emissions rate in terms of lb/mmBtu heat input must be recorded each operating hour, including periods of startup and shutdown.~~

~~(B) The daily average emissions rate must be determined for each boiler operating day using the hourly emissions rates recorded in (A), excluding periods of startup and shutdown.~~

~~(C) 30-day rolling averages must be determined using all daily average emissions rates recorded in (B) whether or not the days are consecutive.~~

~~(D) 12-month rolling averages must be determined using calendar month averages based on all daily averages during the calendar month.~~



~~(b) Compliance with the particulate matter emissions limit in (2)(c) must be determined by EPA Methods 5 and 19 as in effect on December 9, 2010.~~

~~(A) An initial test must be conducted by January 1, 2015.~~

~~(B) Subsequent tests must be conducted in accordance with a schedule specified in the Oregon Title V Operating Permit, but not less than once every 5 years.~~

~~(C) All testing must be performed in accordance with the Department's Source Sampling Manual as in effect on December 9, 2010. [NOTE: DEQ manual is published with OAR 340-200-0035.]~~

~~(7) Notifications and Reports.~~

~~(a) The Department must be notified in writing within 7 days after any control equipment (including combustion controls) used to comply with emissions limits in section (2) begin operation.~~

~~(b) For nitrogen oxide and sulfur dioxide limits based on a 30-day rolling average, a compliance status report, including CEMS data, must be submitted within 180 days of the compliance dates specified in section (2).~~

~~(c) If applicable, a compliance status report for the 12-month rolling average nitrogen oxide limit in section (2)(a) must be submitted by August 1, 2012.~~

~~(d) For particulate matter, a compliance status report, including a source test report, must be submitted within 60 days of completing the initial compliance test specified in section (4)(b).~~

~~[NOTE: View a PDF of EPA Methods by clicking on "Tables" link below.]~~

~~[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]~~

~~**Statutory/Other Authority:** ORS 468 & 468A~~

~~**Statutes/Other Implemented:** ORS 468A.025~~

~~**History:**~~

~~DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019~~

~~DEQ 14-2010, f. & cert. ef. 12-10-10~~

### ~~**340-223-0070**~~

#### ~~**Additional NO<sub>x</sub> Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106) Based Upon Operation Until 2040 or Beyond**~~

~~(1) Subject to OAR 340-223-0050, the owner or operator of the Foster-Wheeler boiler at the Boardman coal-fired power plant may elect to comply with this rule and 340-223-0060 in lieu of compliance with OAR 340-223-0030.~~



~~(2) On and after July 1, 2017, nitrogen oxide emissions must not exceed 0.070 lb/mmBtu heat input as a 30-day rolling average, excluding periods of startup and shutdown.~~

~~(3) Compliance with the nitrogen oxide emissions limit in section (2) must be determined with a continuous emissions monitoring system in accordance with OAR 340-223-0060(3)-(4).~~

~~(4) The Department must be notified in writing within 7 days after any control equipment used to comply with the emissions limit in section (2) begins operation.~~

~~(5) A compliance status report, including CEMS data, must be submitted by January 1, 2018.~~

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**

DEQ 14-2010, f. & cert. ef. 12-10-10

### ~~340-223-0080~~

~~**Alternative Requirements for the Foster-Wheeler Boiler at the Boardman Coal-Fired Power Plant (Federal Acid Rain Program Facility ORISPL Code 6106) Based Upon Permanently Ceasing the Burning of Coal Within Five Years of EPA Approval of the Revision to the Oregon Clean Air Act State Implementation Plan Incorporating OAR Chapter 340, Division 223.**~~

~~(1) Subject to OAR 340-223-0050, the owner or operator of the Foster-Wheeler boiler at the Boardman coal-fired power plant may elect to comply with this rule in lieu of compliance with OAR 340-223-0030 if the boiler permanently ceases to burn coal within five years of the approval by the United States Environmental Protection Agency (EPA) of the revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR chapter 340, division 223.~~

~~(2) Emissions limits:~~

~~(a) Beginning July 1, 2011, nitrogen oxide emissions must not exceed 0.23 lb/mmBtu heat input as a 30-day rolling average, provided that:~~

~~(A) If the source submitted a complete application for construction and/or operation of pollution control equipment to satisfy the emissions limit in subsection (2)(a) at least eight months prior to the compliance date of July 1, 2011, and the Department has not approved or denied the application by the compliance date, the compliance date is extended until the Department approves or disapproves the application, but may not be extended to a date more than five years from the date that the EPA approves a revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR 340-223-0030; and~~

~~(B) If it is demonstrated by December 31, 2011 that the emissions limit in subsection (2)(a) cannot be achieved with combustion controls, the Department by order may grant an extension of compliance to July 1, 2013.~~

~~(b) During periods of startup and shutdown, the emissions limit in subsection (2)(a) does not apply, and nitrogen oxide emissions must not exceed 0.70 lb/mmBtu, as a 3-hour rolling average.~~

~~(c) The Foster Wheeler boiler at the source must permanently cease burning coal by no later than five years after the approval by the EPA of the revision to the State of Oregon Clean Air Act Implementation Plan that incorporates OAR chapter 340, division 223. Notwithstanding the definition of netting basis in OAR 340-200-0020, and the process for reducing plant site emission limits in OAR 340-222-0043, the netting basis and PSEs for the boiler are reduced to zero upon the date on which the boiler permanently ceases burning coal, and prior to that date the netting basis and PSEs for the boiler apply only to physical changes or changes in the method of operation of the source for the purpose of complying with emission limits applicable to the boiler.~~

~~(3) Compliance demonstration. Using the procedures specified in section (4) of this rule, compliance with a 30-day rolling average limit must be demonstrated within 180 days of the compliance date specified in section (2) of this rule.~~

~~(4) Compliance Monitoring and Testing. Compliance with the emissions limit in subsection (2)(a) must be determined with a continuous emissions monitoring system (CEMS) installed, operated, calibrated, and maintained in accordance with the acid rain monitoring requirements in 40 CFR Part 75 as in effect on December 9, 2010.~~

~~(a) The hourly emission rate in terms of lb/mmBtu heat input must be recorded each operating hour, including periods of startup and shutdown.~~

~~(b) The daily average emission rate must be determined for each boiler operating day using the hourly emission rates recorded in (a), excluding periods of startup and shutdown.~~

~~(c) 30-day rolling averages must be determined using all daily average emissions rates recorded in (b) whether or not the days are consecutive.~~

~~(d) The daily average emission rate is calculated for any calendar day in which the boiler combusts any fuel. An operating hour means a clock hour during which the boiler combusts any fuel, either for part of the hour or for the entire hour.~~

#### ~~(5) Notifications and Reports~~

~~(a) The Department must be notified in writing within 7 days after any control equipment (including combustion controls) used to comply with emissions limit in subsection (2)(a) begin operation.~~

~~(b) A compliance status report, including CEMS data, must be submitted within 180 days of the compliance date specified in section (2).~~

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**

~~DEQ 14-2010, f. & cert. ef. 12-10-10~~

**340-223-0100**

**Screening Methodology for Sources for Round II of Regional Haze**

(1) The following sources are subject to the requirements of round II of regional haze, contained in OAR 340-223-0110 to OAR 340-223-0130:

(a) Stationary sources with a Title V operating permit; and

(b) That have a Q/d, as determined as provided in subsection (2), of greater than or equal to 5.00.

(2) To determine Q/d, DEQ shall calculate:

(a) A “Q” factor by adding the plant site emission limits for round II regional haze pollutants as stated in the permit for that source as of December 31, 2017;

(b) A “d” factor by determining the source’s physical distance to the closest Class I area in Oregon or an adjacent state in kilometers, measured in a straight line from the source to the nearest boundary of a Class I area; and

(c) The ratio of Q divided by d for that source.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**

**340-223-0110**

**Options for Compliance with Round II of Regional Haze**

(1) All sources subject to the requirements of round II of regional haze, as determined in OAR 340-223-0100(1), must submit a four factor analysis as required under OAR 340-223-0120(1) and install all controls determined by DEQ to be cost effective for controlling round II regional haze pollutants on the fastest timeline determined by DEQ to be practicable and no later than July 31, 2026 based on the agency record at the time of its decision and in an order issued under OAR 340-223-0130(1) following DEQ’s adjustment and review of the four factor analysis.

(2) DEQ may, but is not required to, offer alternative compliance with subsection (1) by entering into a stipulated agreement and final order under which a source agrees to take one of the actions identified in paragraphs (b)(A) through (D). A stipulated agreement and final order shall identify the action that shall be taken by the source and the timeline for the action, which shall be the fastest timeline determined by DEQ to be practicable and no later than July 31, 2026 as well any

monitoring, recordkeeping, reporting, or other requirements that DEQ determines are necessary to ensure actions taken by the source are enforceable.

(a) If DEQ chooses not to enter into a stipulated agreement and final order under this subsection (2), a source shall comply with subsection (1).

(b) DEQ may enter into a stipulated agreement and final order in which a source agrees to:

(A) Accept federally enforceable reductions of combined plant site emission limits of round II regional haze pollutants to bring the source's Q/d below 5.00. Notwithstanding OAR 340-222-0040, a source may take a PSEL reduction below the generic PSEL to achieve an overall PSEL of round II regional haze pollutants below a Q/d of 5.00. A source's Q/d will be considered to be brought below 5.00 when Q/d is below 5.00 using the calculation in OAR 340-223-0100(2), except that the Q factor shall be calculated by adding the plant site emission limits for regional haze pollutants as stated in the stipulated agreement and final order;

(B) Install controls identified by the source in a four factor analysis as cost effective for that source for reducing round II regional haze pollutants. DEQ must agree that the controls identified will result in the greatest cost effective emissions reduction at the identified emissions unit and DEQ must establish a timeline for installation of those controls that is the fastest practicable timeline for installation of the identified controls and that is no later than July 31, 2026;

(C) Install controls or reduce emissions for round II regional haze pollutants that DEQ determines, in its sole discretion, provide equivalent emissions reductions to controls that would be identified as cost effective for that source following the adjustment and review of a four factor analysis. DEQ must establish a timeline for installation of those controls that is the fastest practicable timeline for installation of the identified controls and that is no later than July 31, 2026; or

(D) Maintain controls that the source has already installed to control round II regional haze pollutants or maintain reduced emissions of regional haze pollutants that DEQ determines, in its sole discretion, have provided and will continue to provide equivalent emissions reductions to controls that would be identified as cost effective for that source following adjustment and review of a four factor analysis.

(c) The stipulated agreement and final order shall be incorporated into the source's Title V permit or upon permit renewal.

(3) If a source fails to take action as required under subsection (1) and DEQ has not entered into a stipulated agreement and final order with that source under subsection (2), DEQ shall complete a four factor analysis for that source, and the source shall install all controls to control round II regional haze pollutants determined by DEQ to be cost effective and based on the fastest timeline determined by DEQ to be practicable and no later than July 31, 2026 in an order issued under OAR 340-223-0130 based on information compiled by DEQ in the agency record.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

### **340-223-0120**

#### **Four Factor Analysis**

(1) A four factor analysis is an emissions control analysis that shall include:

(a) All emissions units for the source; and

(b) Information sufficient to determine, at each emissions unit:

(A) The costs of any and all controls that could be used to reduce round II regional haze pollutants, including an estimate of the cost per ton of each round II regional haze pollutant reduced and all control technologies in use by similar emission units, either at that source or at other sources or locations;

(B) How soon the source believes it would be practicable to install to install controls identified under paragraph (A);

(C) The energy and non-air quality environmental impacts of installing controls identified under paragraph (A); and

(D) The remaining useful life of each emissions unit.

(2) If DEQ determines that the four factor analysis is inaccurate, inadequate, or insufficient, DEQ may request in writing additional information from the source and may adjust the four factor analysis based on any information submitted or may adjust the four factor analysis based on other information DEQ determines to be accurate, adequate, and sufficient. DEQ shall place any information submitted or relied on under this subsection into its record.

(3) DEQ may adjust information in the four factor analysis to assist DEQ in conducting a consistent review of submittals. DEQ shall place any information relied on under this subsection into its record.

(4) DEQ shall review the four factor analysis and any additional information that DEQ has placed in the agency record under subsections (2) and (3) to determine which controls, if any, would be cost effective to reduce round II regional haze pollutants for each emissions unit at a source and to determine what is the fastest practicable timeline for installation of the identified controls. In no event shall the timeline determined to be practicable be later than July 31, 2026.

(a) A control is cost effective if DEQ determines that the control will result in a cost of \$10,000 or less per ton of reductions for any single or combination of round II regional haze pollutants.

(b) If multiple controls are cost effective at an emissions unit, DEQ shall identify as cost effective the control that will result in the greatest emissions reduction at the emissions unit.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**

**340-223-0130**

**Final Orders Ordering Compliance with Round II of Regional Haze**

(1) For all sources identified in OAR 340-223-0100(1) that do not enter into a stipulated agreement and final order under OAR 340-223-0110(2), DEQ shall issue a final order no later than August 9, 2021, identifying:

(a) The action that shall be taken by the source pursuant to OAR 340-223-0110(1), as well any monitoring, recordkeeping, reporting, or other requirements that DEQ determines are necessary to ensure any controls or emission limits are actually implemented and are enforceable.

(b) The timeline under which the source shall complete the action in paragraph (a).

(2) The order issued under subsection (1) shall:

(a) Be a contested case order issued in compliance with ORS chapter 183;

(b) Be incorporated into the source's Title V permit in compliance with OAR 340-218-0200(1)(a)(A) or upon permit renewal.

(3) Notwithstanding OAR 340-011-0530(1), a party wishing to request a contested case hearing must do so in writing within ten days of the date of service of the order issued under subsection (1).

(4) In accordance with OAR 340-011-0530(2), due to the complexity of the regional haze program, the request for hearing based on an order issued under subsection (1) must include a written response that admits or denies all factual matters alleged in the notice, and alleges any and all affirmative defenses and the reasoning in support thereof. Due to the complexity, factual matters not denied will be considered admitted, and failure to raise a defense will be a waiver of the defense. New matters alleged in the request for hearing are denied by DEQ unless admitted in subsequent stipulation.

(5) DEQ shall refer all hearing requests received under subsection (3) to the Office of Administrative Hearings within five business days of receipt of the request. The cases shall be heard on an expedited timeline to the greatest extent practicable. All reasonable efforts shall be made for DEQ or the EQC to issue a final order within 90 days of receipt of the hearing request.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**



State of Oregon Department of Environmental Quality

## Draft Rules – Edits Incorporated

### Division 200

#### GENERAL AIR POLLUTION PROCEDURES AND DEFINITIONS

##### 340-200-0040

##### State of Oregon Clean Air Act Implementation Plan

(1) This implementation plan, consisting of Volumes 2 and 3 of the State of Oregon Air Quality Control Program, contains control strategies, rules and standards prepared by DEQ and is adopted as the State Implementation Plan (SIP) of the State of Oregon under the FCAA, 42 U.S.C.A 7401 to 7671q.

(2) Except as provided in section (3), revisions to the SIP will be made under the EQC's rulemaking procedures in OAR 340 division 11 of this chapter and any other requirements contained in the SIP and will be submitted to the EPA for approval. The SIP was last modified by the EQC on July 22-23, 2021.

(3) Notwithstanding any other requirement contained in the SIP, DEQ may:

(a) Submit to the EPA any permit condition implementing a rule that is part of the federally-approved SIP as a source-specific SIP revision after DEQ has complied with the public hearings provisions of 40 C.F.R. 51.102; and

(b) Approve the standards submitted by LRAPA if LRAPA adopts verbatim, other than non-substantive differences, any standard that the EQC has adopted, and submit the standards to EPA for approval as a SIP revision.

(4) Revisions to the State of Oregon Clean Air Act Implementation Plan become federally enforceable upon approval by the EPA. If any provision of the federally approved State Implementation Plan conflicts with any provision adopted by the EQC, DEQ must enforce the more stringent provision.

**Statutory/Other Authority:** 468A & ORS 468.020

**Statutes/Other Implemented:** ORS 468A.035 & 468A.135

**History:**

[DEQ 1-2021, amend filed 01/21/2021, effective 01/21/2021](#)

[DEQ 21-2020, amend filed 11/19/2020, effective 11/19/2020](#)

[DEQ 17-2020, amend filed 09/21/2020, effective 09/21/2020](#)

[DEQ 18-2019, amend filed 07/19/2019, effective 07/19/2019](#)



[DEQ 14-2019, amend filed 05/17/2019, effective 05/17/2019](#)  
[DEQ 4-2019, amend filed 01/24/2019, effective 01/24/2019](#)  
[DEQ 197-2018, amend filed 11/16/2018, effective 11/16/2018](#)  
[DEQ 192-2018, amend filed 09/14/2018, effective 09/14/2018](#)  
[DEQ 190-2018, amend filed 07/13/2018, effective 07/13/2018](#)  
[DEQ 11-2018, amend filed 03/23/2018, effective 03/23/2018](#)  
DEQ 7-2017, f. & cert. ef. 7-13-17  
DEQ 2-2017, f. & cert. ef. 1-19-17  
DEQ 14-2015, f. & cert. ef. 12-10-15  
DEQ 10-2015, f. & cert. ef. 10-16-15  
DEQ 7-2015, f. & cert. ef. 4-16-15  
DEQ 6-2015, f. & cert. ef. 4-16-15  
DEQ 7-2014, f. & cert. ef. 6-26-14  
DEQ 6-2014, f. & cert. ef. 3-31-14  
DEQ 5-2014, f. & cert. ef. 3-31-14  
DEQ 4-2014, f. & cert. ef. 3-31-14  
DEQ 1-2014, f. & cert. ef. 1-6-14  
DEQ 12-2013, f. & cert. ef. 12-19-13  
DEQ 11-2013, f. & cert. ef. 11-7-13  
DEQ 4-2013, f. & cert. ef. 3-27-13  
DEQ 10-2012, f. & cert. ef. 12-11-12  
DEQ 7-2012, f. & cert. ef. 12-10-12  
DEQ 1-2012, f. & cert. ef. 5-17-12  
DEQ 18-2011, f. & cert. ef. 12-21-11  
DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11  
DEQ 2-2011, f. 3-10-11, cert. ef. 3-15-11  
DEQ 1-2011, f. & cert. ef. 2-24-11  
DEQ 14-2010, f. & cert. ef. 12-10-10  
DEQ 5-2010, f. & cert. ef. 5-21-10  
DEQ 2-2010, f. & cert. ef. 3-5-10  
DEQ 8-2009, f. & cert. ef. 12-16-09  
DEQ 3-2009, f. & cert. ef. 6-30-09  
DEQ 15-2008, f. & cert. ef. 12-31-08  
DEQ 14-2008, f. & cert. ef. 11-10-08  
DEQ 12-2008, f. & cert. ef. 9-17-08  
DEQ 11-2008, f. & cert. ef. 8-29-08  
DEQ 5-2008, f. & cert. ef. 3-20-08  
DEQ 8-2007, f. & cert. ef. 11-8-07  
DEQ 4-2007, f. & cert. ef. 6-28-07  
DEQ 3-2007, f. & cert. ef. 4-12-07  
DEQ 4-2006, f. 3-29-06, cert. ef. 3-31-06  
DEQ 2-2006, f. & cert. ef. 3-14-06  
DEQ 9-2005, f. & cert. ef. 9-9-05  
DEQ 7-2005, f. & cert. ef. 7-12-05  
DEQ 4-2005, f. 5-13-05, cert. ef. 6-1-05  
DEQ 2-2005, f. & cert. ef. 2-10-05

DEQ 1-2005, f. & cert. ef. 1-4-05  
DEQ 10-2004, f. & cert. ef. 12-15-04  
DEQ 1-2004, f. & cert. ef. 4-14-04  
DEQ 19-2003, f. & cert. ef. 12-12-03  
DEQ 14-2003, f. & cert. ef. 10-24-03  
DEQ 5-2003, f. & cert. ef. 2-6-03  
DEQ 11-2002, f. & cert. ef. 10-8-02  
DEQ 5-2002, f. & cert. ef. 5-3-02  
DEQ 4-2002, f. & cert. ef. 3-14-02  
DEQ 17-2001, f. & cert. ef. 12-28-01  
DEQ 16-2001, f. & cert. ef. 12-26-01  
DEQ 15-2001, f. & cert. ef. 12-26-01  
DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01  
DEQ 4-2001, f. & cert. ef. 3-27-01  
DEQ 2-2001, f. & cert. ef. 2-5-01  
DEQ 21-2000, f. & cert. ef. 12-15-00  
DEQ 20-2000 f. & cert. ef. 12-15-00  
DEQ 17-2000, f. & cert. ef. 10-25-00  
DEQ 16-2000, f. & cert. ef. 10-25-00  
DEQ 13-2000, f. & cert. ef. 7-28-00  
DEQ 8-2000, f. & cert. ef. 6-6-00  
DEQ 6-2000, f. & cert. ef. 5-22-00  
DEQ 2-2000, f. 2-17-00, cert. ef. 6-1-01  
DEQ 15-1999, f. & cert. ef. 10-22-99  
DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-020-0047  
DEQ 10-1999, f. & cert. ef. 7-1-99  
DEQ 6-1999, f. & cert. ef. 5-21-99  
DEQ 5-1999, f. & cert. ef. 3-25-99  
DEQ 1-1999, f. & cert. ef. 1-25-99  
DEQ 21-1998, f. & cert. ef. 10-12-98  
DEQ 20-1998, f. & cert. ef. 10-12-98  
DEQ 17-1998, f. & cert. ef. 9-23-98  
DEQ 16-1998, f. & cert. ef. 9-23-98  
DEQ 15-1998, f. & cert. ef. 9-23-98  
DEQ 10-1998, f. & cert. ef. 6-22-98  
DEQ 24-1996, f. & cert. ef. 11-26-96  
DEQ 23-1996, f. & cert. ef. 11-4-96  
DEQ 22-1996, f. & cert. ef. 10-22-96  
DEQ 19-1996, f. & cert. ef. 9-24-96  
DEQ 15-1996, f. & cert. ef. 8-14-96  
DEQ 8-1996(Temp), f. & cert. ef. 6-3-96  
DEQ 20-1995 (Temp), f. & cert. ef. 9-14-95  
DEQ 19-1995, f. & cert. ef. 9-1-95  
DEQ 17-1995, f. & cert. ef. 7-12-95  
DEQ 14-1995, f. & cert. ef. 5-25-95  
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DEQ 27-1992, f. & cert. ef. 11-12-92  
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DEQ 20-1992, f. & cert. ef. 8-11-92  
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DEQ 7-1992, f. & cert. ef. 3-30-92  
DEQ 3-1992, f. & cert. ef. 2-4-92  
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DEQ 25-1991, f. & cert. ef. 11-13-91  
DEQ 24-1991, f. & cert. ef. 11-13-91  
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DEQ 19-1991, f. & cert. ef. 11-13-91  
DEQ 2-1991, f. & cert. ef. 2-14-91  
DEQ 31-1988, f. 12-20-88, cert. ef. 12-23-88  
DEQ 21-1987, f. & cert. ef. 12-16-87  
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DEQ 21-1986, f. & cert. ef. 11-7-86  
DEQ 20-1986, f. & cert. ef. 11-7-86  
DEQ 10-1986, f. & cert. ef. 5-9-86  
DEQ 5-1986, f. & cert. ef. 2-21-86  
DEQ 12-1985, f. & cert. ef. 9-30-85  
DEQ 3-1985, f. & cert. ef. 2-1-85  
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DEQ 6-1983, f. & cert. ef. 4-18-83  
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DEQ 21-1982, f. & cert. ef. 10-27-82  
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DEQ 11-1981, f. & cert. ef. 3-26-81  
DEQ 22-1980, f. & cert. ef. 9-26-80  
DEQ 21-1979, f. & cert. ef. 7-2-79  
DEQ 19-1979, f. & cert. ef. 6-25-79  
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## **Division 223 REGIONAL HAZE RULES**

### **340-223-0010**

#### **Purpose**

OAR 340-223-0020 through 340-223-0130 establish the process and criteria for identifying reductions of pollutants from stationary sources that reduce visibility and contribute to regional haze in Class I areas, for the purpose of maintaining reasonable progress and other requirements associated with Oregon’s implementation of the federal regional haze rule in 40 CFR 51.308 (2017).

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

#### **History:**

DEQ 14-2010, f. & cert. ef. 12-10-10

DEQ 3-2009, f. & cert. ef. 6-30-09

### **340-223-0020**

#### **Definitions**

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule takes precedence.

(1) "Emissions unit" means any part or activity of a source that emits or has the potential to emit more than 20 tons of any single or combination of round II regional haze pollutants.

(2) "Round II regional haze pollutants" means the pollutants DEQ has identified in round II of regional haze that contribute to visibility impacts in Class I areas, which are sulfur dioxide, particulate matter of a nominal diameter of 10 microns or less, and nitrogen oxides.

(3) "Round II of regional haze" means the combination of information collection, technical demonstrations, control strategies, commitments, rules, orders, and any other actions that make up DEQ’s development and implementation of the 2018 through 2028 long-term strategy for reducing haze in Oregon’s Class I areas that will be submitted or that have been submitted to EPA as part of the state implementation plan.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019

DEQ 14-2010, f. & cert. ef. 12-10-10

DEQ 3-2009, f. & cert. ef. 6-30-09

**340-223-0100**

**Screening Methodology for Sources for Round II of Regional Haze**

(1) The following sources are subject to the requirements of round II of regional haze, contained in OAR 340-223-0110 to OAR 340-223-0130:

(a) Stationary sources with a Title V operating permit; and

(b) That have a Q/d, as determined as provided in subsection (2), of greater than or equal to 5.00.

(2) To determine Q/d, DEQ shall calculate:

(a) A “Q” factor by adding the plant site emission limits for round II regional haze pollutants as stated in the permit for that source as of December 31, 2017;

(b) A “d” factor by determining the source’s physical distance to the closest Class 1 area in Oregon or an adjacent state in kilometers, measured in a straight line from the source to the nearest boundary of a Class I area; and

(c) The ratio of Q divided by d for that source.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**

**340-223-0110**

**Options for Compliance with Round II of Regional Haze**

(1) All sources subject to the requirements of round II of regional haze, as determined in OAR 340-223-0100(1), must submit a four factor analysis as required under OAR 340-223-0120(1) and install all controls determined by DEQ to be cost effective for controlling round II regional haze pollutants on the fastest timeline determined by DEQ to be practicable and no later than

July 31, 2026 based on the agency record at the time of its decision and in an order issued under OAR 340-223-0130(1) following DEQ's adjustment and review of the four factor analysis.

(2) DEQ may, but is not required to, offer alternative compliance with subsection (1) by entering into a stipulated agreement and final order under which a source agrees to take one of the actions identified in paragraphs (b)(A) through (D). A stipulated agreement and final order shall identify the action that shall be taken by the source and the timeline for the action, which shall be the fastest timeline determined by DEQ to be practicable and no later than July 31, 2026 as well any monitoring, recordkeeping, reporting, or other requirements that DEQ determines are necessary to ensure actions taken by the source are enforceable.

(a) If DEQ chooses not to enter into a stipulated agreement and final order under this subsection (2), a source shall comply with subsection (1).

(b) DEQ may enter into a stipulated agreement and final order in which a source agrees to:

(A) Accept federally enforceable reductions of combined plant site emission limits of round II regional haze pollutants to bring the source's Q/d below 5.00. Notwithstanding OAR 340-222-0040, a source may take a PSEL reduction below the generic PSEL to achieve an overall PSEL of round II regional haze pollutants below a Q/d of 5.00. A source's Q/d will be considered to be brought below 5.00 when Q/d is below 5.00 using the calculation in OAR 340-223-0100(2), except that the Q factor shall be calculated by adding the plant site emission limits for regional haze pollutants as stated in the stipulated agreement and final order;

(B) Install controls identified by the source in a four factor analysis as cost effective for that source for reducing round II regional haze pollutants. DEQ must agree that the controls identified will result in the greatest cost effective emissions reduction at the identified emissions unit and DEQ must establish a timeline for installation of those controls that is the fastest practicable timeline for installation of the identified controls and that is no later than July 31, 2026;

(C) Install controls or reduce emissions for round II regional haze pollutants that DEQ determines, in its sole discretion, provide equivalent emissions reductions to controls that would be identified as cost effective for that source following the adjustment and review of a four factor analysis. DEQ must establish a timeline for installation of those controls that is the fastest practicable timeline for installation of the identified controls and that is no later than July 31, 2026; or

(D) Maintain controls that the source has already installed to control round II regional haze pollutants or maintain reduced emissions of regional haze pollutants that DEQ determines, in its sole discretion, have provided and will continue to provide equivalent emissions reductions to controls that would be identified as cost effective for that source following adjustment and review of a four factor analysis.

(c) The stipulated agreement and final order shall be incorporated into the source's Title V permit or upon permit renewal.

(3) If a source fails to take action as required under subsection (1) and DEQ has not entered into a stipulated agreement and final order with that source under subsection (2), DEQ shall complete a four factor analysis for that source, and the source shall install all controls to control round II regional haze pollutants determined by DEQ to be cost effective and based on the fastest timeline determined by DEQ to be practicable and no later than July 31, 2026 in an order issued under OAR 340-223-0130 based on information compiled by DEQ in the agency record.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

### **340-223-0120**

#### **Four Factor Analysis**

(1) A four factor analysis is an emissions control analysis that shall include:

(a) All emissions units for the source; and

(b) Information sufficient to determine, at each emissions unit:

(A) The costs of any and all controls that could be used to reduce round II regional haze pollutants, including an estimate of the cost per ton of each round II regional haze pollutant reduced and all control technologies in use by similar emission units, either at that source or at other sources or locations;

(B) How soon the source believes it would be practicable to install to install controls identified under paragraph (A);

(C) The energy and non-air quality environmental impacts of installing controls identified under paragraph (A); and

(D) The remaining useful life of each emissions unit.

(2) If DEQ determines that the four factor analysis is inaccurate, inadequate, or insufficient, DEQ may request in writing additional information from the source and may adjust the four factor analysis based on any information submitted or may adjust the four factor analysis based on other information DEQ determines to be accurate, adequate, and sufficient. DEQ shall place any information submitted or relied on under this subsection into its record.

(3) DEQ may adjust information in the four factor analysis to assist DEQ in conducting a consistent review of submittals. DEQ shall place any information relied on under this subsection into its record.

(4) DEQ shall review the four factor analysis and any additional information that DEQ has placed in the agency record under subsections (2) and (3) to determine which controls, if any, would be cost effective to reduce round II regional haze pollutants for each emissions unit at a

source and to determine what is the fastest practicable timeline for installation of the identified controls. In no event shall the timeline determined to be practicable be later than July 31, 2026.

(a) A control is cost effective if DEQ determines that the control will result in a cost of \$10,000 or less per ton of reductions for any single or combination of round II regional haze pollutants.

(b) If multiple controls are cost effective at an emissions unit, DEQ shall identify as cost effective the control that will result in the greatest emissions reduction at the emissions unit.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**

### **340-223-0130**

#### **Final Orders Ordering Compliance with Round II of Regional Haze**

~~(1)~~(2) For all sources identified in OAR 340-223-0100(1) that do not enter into a stipulated agreement and final order under OAR 340-223-0110(2), DEQ shall issue a final order no later than August 9, 2021, identifying:

(a) The action that shall be taken by the source pursuant to OAR 340-223-0110(1), as well any monitoring, recordkeeping, reporting, or other requirements that DEQ determines are necessary to ensure any controls or emission limits are actually implemented and are enforceable.

(b) The timeline under which the source shall complete the action in paragraph (a).

(2) The order issued under subsection (1) shall:

(a) Be a contested case order issued in compliance with ORS chapter 183;

(b) Be incorporated into the source's Title V permit in compliance with OAR 340-218-0200(1)(a)(A) or upon permit renewal.

(3) Notwithstanding OAR 340-011-0530(1), a party wishing to request a contested case hearing must do so in writing within ten days of the date of service of the order issued under subsection (1).

(4) In accordance with OAR 340-011-0530(2), due to the complexity of the regional haze program, the request for hearing based on an order issued under subsection (1) must include a written response that admits or denies all factual matters alleged in the notice, and alleges any and all affirmative defenses and the reasoning in support thereof. Due to the complexity, factual matters not denied will be considered admitted, and failure to raise a defense will be a waiver of



the defense. New matters alleged in the request for hearing are denied by DEQ unless admitted in subsequent stipulation.

(5) DEQ shall refer all hearing requests received under subsection (3) to the Office of Administrative Hearings within five business days of receipt of the request. The cases shall be heard on an expedited timeline to the greatest extent practicable. All reasonable efforts shall be made for DEQ or the EQC to issue a final order within 90 days of receipt of the hearing request.

[NOTE: This rule is included in the State of Oregon Clean Air Act Implementation Plan that EQC adopted under OAR 340-200-0040.]

**Statutory/Other Authority:** ORS 468 & 468A

**Statutes/Other Implemented:** ORS 468A.025

**History:**