



State of Oregon Department of Environmental Quality

# Notice of Proposed Rulemaking

**Aug. 27, 2021**

Regional Haze 2021 State Implementation Plan Rulemaking

This package contains the following documents:

- Notice of Rulemaking
- Supporting Documents
- Draft Rules

## **Note for Readers:**

This package contains multiple documents. If you want to read more than one document at a time, you can open multiple copies of this PDF by downloading the PDF and then opening it in Adobe. You can then either:

- Click on the “Windows” item in the top ribbon
- Click on “New Window”
- A second copy of the PDF will open in a new window

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- Click on “File” in the top ribbon
- Click on “Open” in the top ribbon
- Double click on the name of the PDF you want to open
- A second copy of the PDF will open in a separate tab in the same window

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# Introduction and Summary

DEQ invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules that will fulfill aspects of the Federal Clean Air Act in Oregon addressing regional haze in certain areas of the state. The Clean Air Act requires DEQ to prepare and submit a Regional Haze Plan to EPA. The proposed rule, subject to Environmental Quality Commission adoption, would amend Oregon's State Implementation Plan with submittal of the 2018 – 2028 Regional Haze Plan to the U.S. Environmental Protection Agency.

## Overview

The proposed rules pertain to Oregon's implementation of the federal 1999 Regional Haze Rule,<sup>1</sup> amended in 2017, hence the 2017 Regional Haze Rule [40 CFR 51.308]. 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 Plan in 2010. The 2017 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 began work on Oregon's second – or Round 2 - Regional Haze Plan for the 2018 – 2028 implementation period in early 2019.

In July 2021, the Environmental Quality Commission adopted rules in Chapter 340 Division 223 that allowed DEQ to fulfill the requirement under the federal 2017 Regional Haze Rule that Regional Haze Plans include enforceable emission reductions of haze-forming pollutants. The Division 223 rules codified the screening procedure and information collection that DEQ undertook, using existing authority in OAR 340-214-0110 to request information from certain sources and established which sources DEQ would require to take action under Round 2 of regional haze. The Division 223 rules also established what action is required of those identified regulated sources through a number of compliance options. Revisions to Division 223 rules also repealed rules pertaining only to the first round of Regional Haze regulations, in particular by requiring certain controls at the Portland General Electric coal-fired power plant in Boardman, OR. Rules applicable only to the Boardman coal-fired plant were no longer relevant because PGE closed the Boardman coal-fired plant permanently in December 2020.

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<sup>1</sup> 64 FR 35714, <https://www.govinfo.gov/content/pkg/FR-1999-07-01/pdf/99-13941.pdf> (accessed 8/27/21)

DEQ has now developed a Regional Haze Plan for the 2018 – 2028 implementation period and is accepting public comments on that plan. The Round 2 haze-forming pollutants – those pollutants that lead to reduced visibility at Class I areas - are particulate matter, nitrogen oxides and sulfur dioxide. These pollutants are abbreviated as PM, NOx, and SO2

In August 2021, using the authority provided by EQC's adoption of the revised Division 223 rules, DEQ issued orders to facilities to install pollution controls or otherwise reduce emissions of Round 2 Regional Haze pollutants. In some cases, DEQ determined that facilities had taken appropriate action to reduce their permitted emissions below the thresholds identified in Division 223 rules. DEQ includes the orders and permits documenting DEQ's determinations in an appendix of the Round 2 Regional Haze Plan.

In developing the Round 2 Regional Haze Plan, DEQ consulted 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 also participated in the Western Regional Air Partnership which is a voluntary partnership of states, tribes, federal land managers, local air agencies and EPA whose purpose is to understand current and evolving regional air quality issues affecting the western portion of the U.S. WRAP provided major assistance to DEQ for the Round 2 Regional Haze Plan, in particular through data analysis, modeling and other technical support.

The 2017 Regional Haze Rule requires certain elements in Regional Haze plans, including the requirement that emission reductions are federally enforceable. Federal enforceability means that in the unlikely event that DEQ could not enforce emissions reductions, EPA could step in and do so. A state makes provisions of a Regional Haze plan federally enforceable by incorporating the Regional Haze Plan into the SIP. Because a Regional Haze plan implements federal requirements and is part of a state's SIP, a Regional Haze plan, itself, is considered and often referred to as a SIP. Required elements of a Regional Haze plan include:

- background on previous plans and commitment to submit a 5-year progress report by Jan. 31, 2025
- a monitoring strategy to measure and report on visibility impairment
- an analysis of monitoring data on most visibility-impaired days and clearest days
- an emissions inventory of Round 2 regional haze pollutants
- stationary source emissions and pollution controls analysis
- criteria for determining stationary sources to be evaluated
- technical basis for determining necessary emission reductions from anthropogenic sources
- stationary source emission limits, averaging periods, monitoring and record keeping requirements and compliance deadlines
- a long term strategy to reduce visibility impairment in Class I areas from all anthropogenic sources
- establishment of reasonable progress goals toward natural visibility in Class I areas
- comparison of 2028 reasonable progress goals to a uniform rate of progress toward natural visibility in Class I areas by 2064
- consultation with states, federal land managers and tribal nations

The 2017 Regional Haze Rule requires DEQ to report on reasonable progress being made toward natural visibility conditions. In this Regional Haze Plan, DEQ reports progress made through 2018 and establishes reasonable progress goals for 2028, the end of the second implementation period. The 2028 RPGs are modeled visibility values at each Class I area monitoring location. Models estimate RPGs based on current regulations and potential additional pollution controls to be put in place by July 31, 2026. In the Regional Haze Plan, DEQ compares 2028 RPGs for each Class I area monitoring location to a uniform rate of progress from visibility baseline conditions (2000 – 2004) to natural visibility conditions in 2064. EPA has clarified that a state must implement feasible and reasonable emission reductions even if the state is making reasonable progress toward natural visibility in Class 1 areas; EPA refers to this concept as reasonable progress not providing “safe harbor.”<sup>2</sup>

The 2017 Regional Haze Rule requires a state to develop a long term strategy to continue to improve visibility at Class 1 areas by considering all sources of visibility impairment, including major and minor stationary sources, mobile sources, and area sources. The long term strategy must include enforceable emissions limitations, compliance schedules, and other measures necessary to achieve reasonable progress goals. Based on monitoring data and analysis of the anthropogenic sources with largest contributions to visibility impairment in Class I areas, the primary elements of Oregon’s long term strategy are:

- Federally enforceable emission reductions and pollution controls at Title V stationary sources that collectively contribute 80% of Oregon regional haze-forming emissions from stationary sources.
- Adopting California low NOx and zero-emission standards for medium- and heavy-duty vehicles.
- Awarding more than \$50 million through the Volkswagen Environmental Mitigation Trust Fund and Diesel Emission Reduction Act funds to replace dirty diesel engines in on-road and nonroad equipment.
- Implementing a statute approved by the 2017 Oregon Legislature that prohibits titling and registration of older medium- and heavy-duty diesel trucks in Clackamas, Multnomah and Washington counties.
- Implementing smoke management policies under the 2019 SIP-approved Smoke Management Plan.
- Partnering with state and local agencies to explore alternatives to prescribed pile burning, such as biomass utilization.
- Improving regulations and policies governing open burning and agricultural burning.
- Awarding legislatively appropriated funds to communities for residential woodstove change-out programs.
- Reducing nitrate and ammonia emissions from agricultural operations by working with state and local agencies to develop a dairy air quality permitting program based on best management practices.

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<sup>2</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.

Oregon's long term strategy also includes expanding programs to incentivize alternative fuels and electric vehicle transportation, a robust vehicle inspection program, improving accuracy of agricultural ammonia emission inventories and rulemaking to require reducing volatile organic compounds in consumer products and industrial coatings.

The 2017 Regional Haze Rule requires that states consult with Federal Land Managers early enough in the plan development process that FLMs have an opportunity to meaningfully inform decisions about the state's long-term strategy to improve visibility. The two agencies with whom DEQ consulted were the U.S. Forest Service and National Park Service. DEQ first engaged with FLMs in January 2020 (NPS) and August 2020 (USFS), met multiple times between February and July 2021, and provided a draft SIP to FLMs on May 5, 2021. The publicly noticed Round 2 Regional Haze Plan acknowledges and responds to comments received from FLMs.

# Procedural Summary

## More information

Information about this rulemaking is on this rulemaking's web page: [2018-2028 State Implementation Plan](#)

## 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, Oct. 25, 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: 814 5210 1607

Meeting Passcode: 550299

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 Friday, Nov. 1, 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, Sept. 27, 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: 871 2780 5761

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.

## **Sign up for rulemaking notices**

Get email or text updates about this rulemaking by signing up through this [link](#).

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 and the 2018 – 2028 Regional Haze. DEQ may modify the Regional Haze Plan based on the comments.

Proposed rules only become effective if the EQC adopts them. DEQ plans to present the proposed rules and the Regional Haze Plan to the EQC for a decision at a meeting on or after Oct. 16, 2021.

# **Statement of need**

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

The proposed rule would amend Oregon's State Implementation Plan to document submittal of the 2018 – 2028 Regional Haze Plan to the EPA, upon EQC direction. By submitting the 2018 – 2018 Regional Haze Plan, DEQ will fulfill requirements of the Clean Air Act and the 2017 federal Regional Haze Rule.

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

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

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

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

# Rules affected, authorities, supporting documents

## Lead division

200

## Program or activity

Regional Haze

## Chapter 340 action

| Amend        |  |
|--------------|--|
| 340-200-0040 |  |

| Statutory Authority - ORS |      |  |
|---------------------------|------|--|
| 468.020                   | 468A |  |

| Statutes Implemented - ORS |  |  |
|----------------------------|--|--|
| 468A.035                   |  |  |

## Documents relied on for rulemaking

| Document title   | Document location   |
|--|---|
| Protection of Visibility: Amendments to Requirements for State Plans. US EPA (January 10, 2017) 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/air/Pages/haze-ffa.aspx">https://www.oregon.gov/deq/air/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>   |
| Regional Haze Rule (1999), 64 FR 35714   | <a href="https://www.govinfo.gov/content/pkg/FR-1999-07-01/pdf/99-13941.pdf">https://www.govinfo.gov/content/pkg/FR-1999-07-01/pdf/99-13941.pdf</a>   |

## **Fee Analysis**

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

# Statement of fiscal and economic impact

## Fiscal and Economic Impact

The proposed rule would document DEQ's submittal of the Round 2 Regional Haze Plan to EPA, upon EQC direction. The proposed rule has no fiscal nor economic impacts; it simply approves submission of the rules that the EQC has already and separately approved, and the orders and other plan elements that DEQ has already issued, to be submitted to EPA for approval as part of the SIP. The only potential fiscal impact from this rulemaking would be in a scenario where there is federal enforcement for a violation of the State Implementation Plan; EPA has authority to issue federal penalties.

## Statement of Cost of Compliance

### State agencies

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

DEQ and possibly LRAPA staff will implement the 2018 – 2028 Regional Haze Plan but will do so with existing resources. DEQ does not expect any other state agency to be fiscally affected by the proposed rule.

### Local governments

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

### 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.

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

Short-term health effects of NO<sub>x</sub> exposure include respiratory irritation, which can exacerbate existing respiratory diseases, like asthma. NO<sub>x</sub> also leads to secondary formation of PM and ozone, each of which can lead to short-term respiratory impairment and long-

term health effects, such as greater susceptibility to respiratory disease.<sup>3</sup> Adverse health effects of PM exposure include both respiratory and cardiovascular impairment and damage, up to premature death for vulnerable populations.<sup>4</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>5</sup>

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

DEQ does not expect a fiscal impact for large business from the proposed rule that would simply document DEQ's submission of the Regional Haze Plan, upon EQC direction. However, DEQ acknowledges that it expects that large businesses to whom DEQ issued orders under the previously approved Division 223 rules will incur fiscal impacts from implementation of the Regional Haze Plan. DEQ broadly notified entities potentially affected by Division 223 fiscal impacts and considered public input on fiscal effects through the Division 223 rulemaking public procedures. The Division 223 Fiscal Impact Statement, Fiscal Advisory Committee materials, EQC staff report and final Division 223 rules that EQC adopted are posted on the Regional Haze Division 223 rulemaking webpage.<sup>6</sup>

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

No small businesses would be regulated under the Regional Haze Plan, so this rulemaking does not impose any mandatory requirements for small businesses and, accordingly, does not impose any direct compliance costs.

Although not a fiscal impact from this rulemaking, some small businesses may be indirectly, positively affected by Regional Haze Plan implementation. The types of small businesses that may be impacted by Regional Haze Plan implementation 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. 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>7</sup> In 2019, approximately 27,000 people visited wilderness areas in the Wallowa Whitman National Forest,<sup>8</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>9</sup>

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<sup>3</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>4</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>5</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>6</sup> <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rhsip2028.aspx>

<sup>7</sup> US Forest Service, National Visitor Use Monitoring <https://apps.fs.usda.gov/nvum/results/A06022.aspx/FY2016>

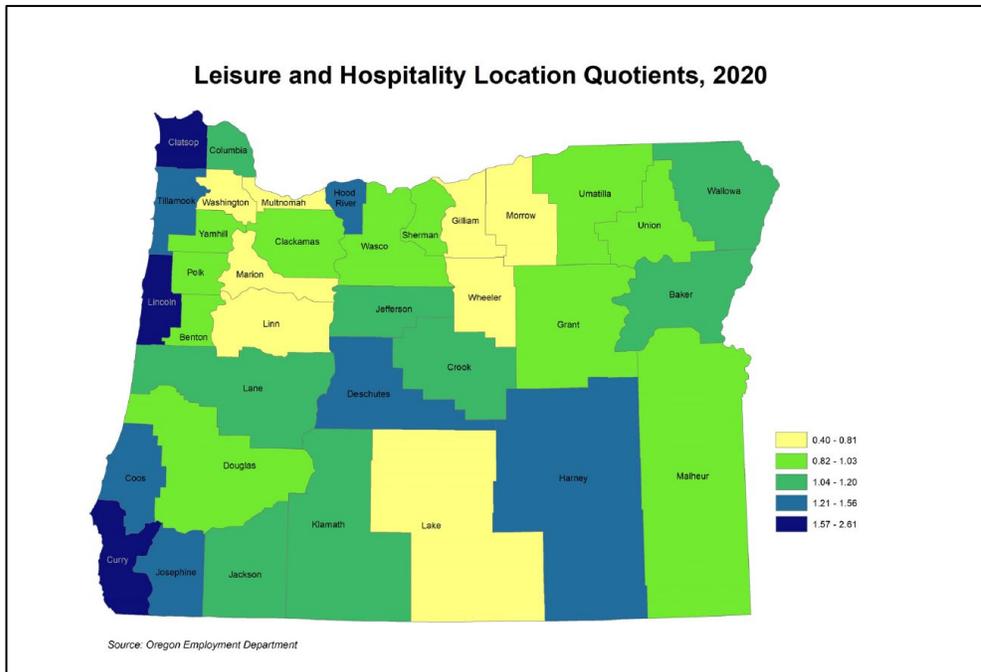
<sup>8</sup> *Ibid.*

<sup>9</sup> <https://www.nationalparked.com/crater-lake/visitation-statistics>, accessed on 05/06/21.

In Oregon, the tourism industry is mainly composed of small businesses, according to 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>10</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>11</sup> Note in Figure 1 relatively high leisure and hospitality quotients in Hood, Deschutes, Klamath and Wallowa Counties.<sup>12</sup>

**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 through implementation of the Regional Haze Plan are small businesses. DEQ confirmed this through a review of the US business database, Reference USA.gov.

<sup>10</sup> Oregon Employment Dept. (March 2021), <https://www.qualityinfo.org/-/oregon-s-leisure-and-hospitality-industry>

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

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

None

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

None

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

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

## 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>                                   |
| 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> .                 |

### Advisory committee fiscal review

DEQ did not convene a fiscal advisory committee for the proposed rule that would document submittal of the Regional Haze Plan to EPA for approval as part of the SIP, upon EQC direction. DEQ did appoint a fiscal advisory committee to review fiscal impacts of the Division 223 rulemaking that provided the authority for DEQ to issue the facility orders included in the Regional Haze Plan. DEQ summarized that committee's findings in the public notice documents and the DEQ staff report posted on the Regional Haze 2021 Division 223 rulemaking webpage.<sup>13</sup>

### 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>14</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 does not expect that the proposed rule would have the potential to affect housing development costs or would have any effect on the major cost components of residential construction such as cost of land, labor, or permitting or zoning regulations.

<sup>13</sup> <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rhsip2021.aspx>

<sup>14</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 rule would allow DEQ, upon EQC direction, to fulfill a federal requirement to submit to EPA a Regional Haze Plan for the 2018 – 2028 implementation period. The proposed rule is 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 did not consider alternatives to the proposed rule since submitting a Regional Haze Plan is a federal requirement.

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

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

Statewide goals also specifically reference the following DEQ programs:

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

## Determination

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

## **EQC Prior Involvement**

DEQ has presented progress on Round 2 of Regional Haze program implementation through informational items on the November 2019 and January 2021 EQC agendas. The EQC adopted rule revisions to Chapter 340 Division 223 in July 2021 and those rules provided DEQ the authority to issue orders now contained in the Regional Haze Plan.

## **Advisory Committee**

DEQ did not convene an advisory committee since submitting the Regional Haze Plan to EPA would not have presented any policy alternatives.

# Public Engagement

## Public notice

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

- On Aug. 27, 2021, filing notice with the Oregon Secretary of State for publication in the September 2021 Oregon Bulletin;
- Notifying the EPA via GovDelivery;
- 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 Nov. 1, 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, Oct. 25, 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: 814 5210 1607

Meeting Passcode: 550299

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

- [Round 2 Regional Haze State Implementation Plan for the period 2018 – 2028.](#)
  - [Appendix D – OAR Chapter 340 Division 223 Rules](#)
  - [Appendix E – Orders and Permit Documents](#)
  - [Appendix F – Four Factor Analysis – No cost effective controls](#)



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~~November 18 - 19, 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:**

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[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](#)  
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State of Oregon Department of Environmental Quality

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