

DEQ Rulemaking Plan

October 2017



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



State of Oregon
Department of
Environmental
Quality

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Information and Contacts

If you have questions about a specific rulemaking you may contact the subject matter expert listed for that rulemaking.

If you have other questions about DEQ rulemaking, contact the Agency Rules Coordinator, Meyer Goldstein, at goldstein.meyer@deq.state.or.us or 503-229-6478.

Summary

The Oregon Department of Environmental Quality uses Oregon Administrative Rules to implement Oregon laws. The Environmental Quality Commission has the legal authority to adopt rules that DEQ enforces.

Through a prioritization process, DEQ staff determines whether a rulemaking concept supports program and division priorities. Staff also determines whether DEQ has the resources needed to develop and implement the proposed rules.

The DEQ director reviews all prioritized rulemaking concepts and considers how each concept aligns with DEQ priorities. The director then determines whether to:

1. Add the concept to the DEQ Rulemaking Plan,
2. Postpone developing the rulemaking concept, or
3. Deny additional work on the concept.

EQC meeting schedule

2017

January 3
January 17-19
February 2
February 14
April 19-20
July 11-13
September 13-14
November 2-3

Rules adopted since last report

EQC Action July 12, 2017

Hazardous Waste Phase II

Subject Matter Expert: Jeannette Acomb
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503-229-6303

This rulemaking amended these hazardous waste rules:

- Definition of solid waste
- Academic laboratories rules
- Wipes rule
- Electric utilities disposal of coal combustion residues
- Post-closure care for non-permitted land disposal units
- NPDES streamlining amendments
- Conditional exclusion for carbon dioxide streams in geological sequestration activities

The amendments aligned Oregon rules with changes in federal rules. Oregon could lose delegated authority to operate its Resource Conservation and Recovery Act hazardous waste program if it did not adopt these changes.

DEQ:

- Held advisory committee meetings in spring of 2016
- Provided public notice of the rulemaking and opened public comment in November 2016
- Held a public hearing in December 2016

Update Oregon Air Quality Rules to Incorporate Federal Air Quality Regulations

Subject Matter Expert: Gerry Ebersole:
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503-229-6974

The rules adopted new and amended federal air quality regulations. This includes adopting new federal standards for:

- New, reconstructed or modified kraft pulp mills,
- New federal residual risk standards for off-site waste and recovery,
- Flexible polyurethane foam production, polymer and resin production,
- Pesticide active ingredient production, and polyether polyol production, and
- Amended federal standards for polyvinyl chloride and copolymer production, electric utility steam generating units, and secondary lead smelting.

DEQ:

- Issued a notice of a rulemaking hearing and opened public comment in October 2016
- Held a public hearing on December 19, 2016

Regional Haze Update

Subject Matter Expert: Rachel Sakata

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503-229-6549

The rules provide an update on DEQ's 2010 Regional Haze Plan. This federally required five-year progress report addresses:

- Updates on visibility and emission trends in Oregon's Class I areas
- Status of implementation measures
- Adequacy of implementation on the plan
- Additional analysis to prepare for a major plan update in 2018

DEQ:

- Provided public notice of the rulemaking and opened public comment in March 2017
- Held a public hearing in April 2017

EQC Action July 13, 2017

North Fork Smith River Outstanding Water Resource 2017

Subject Matter Expert: Aron Borok

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503-229-5050

A citizen petitioned the EQC to initiate rulemaking to designate the North Fork Smith River and its tributaries and associated wetlands as Outstanding Resource Waters of Oregon. The petition also proposed amendments to OAR 340-041-0305, the water quality standards and policies for the South Coast Basin, to protect the current high water quality, exceptional ecological values and existing and designated uses of these waters. The rule amendments prohibit new or expanded wastewater discharges and other activities that would degrade water quality. Exceptions are allowed to respond to emergencies and for restoration or enhancement activities. On April 20, 2016, the EQC granted this petition and ordered DEQ to begin rulemaking.

DEQ:

- Held advisory committee meetings on October 17, 2016, and December 1, 2016
- Issued public notice and opened the public comment period in January 2017

- Held public hearings on February 21 and 22, 2017

EQC Action September 13, 2017

Water Quality Permitting Fee 2017

Subject Matter Expert: William Knight
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503-229-6442

This rulemaking instituted the standard bi-annual water quality permit fee increase. That increase is limited to a maximum of three percent.

DEQ:

- Held an advisory committee meeting in March 2017
- Issued a public notice in May 2017
- Held a public hearing in June 2017

Pending rulemakings

There are 16 pending rulemakings on the current DEQ Rulemaking Plan. The table below provides the current schedule for each.

	2017			2018												2019									
	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	
Legislative Session																									
EQC Meeting																									
Current Rulemakings																									
1) CWSRF 2017		E																							
2) Clean Fuels 2017		E																							
3) Air Toxics Benchmark Review		N	H																						
4) Underground Storage Tanks 2017	A			N	H			E																	
5) Cleaner Air Oregon 2017	N	H	H						E																
6) Asbestos 2018	A				N	H			E																
7) Public Records						N	H																		
8) Heatsmart						N	H					E													
10) Electric Vehicle Rebates		A	N	H		E																			
11) Title V CPI 2018 Part 1					N	H			E																
12) Greenhouse Gas Update		A			N	H						E													
13) Water Quality Permit Fee 2018					A	N	H					E													
14) Hazardous Waste Delisting									N	H				E											
15) Clean Fuels 2018					N	H									E										
16) Hazardous Waste Fee (2019)																							N	H	
ON HOLD																									
Air Contaminant Discharge Permit Fee 2017 (E Board)																									
Clean Power Plan																									
Federal Landfill Emission Guidelines																									
LevZev 2017																									
Dissolved Oxygen																									

A=advisory committee N=public notice filed H=public hearing E=EQC meeting

Planned EQC November 2017

Clean Fuels Program 2017

Subject Matter Expert: Cory-Ann Wind
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 503-229-5388

The Clean Fuels Program will consider amendments to its rules to address cost-containment issues as the legislature previously directed.

DEQ:

- Held advisory committee meetings through the spring of 2017
- Issued a public notice and hold public hearings in the summer of 2017

Clean Water State Revolving Fund 2017

Subject Matter Expert: Lee Ann Lawrence

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503-229-5622

This rulemaking will align Oregon rules with 2014 amendments to the federal Clean Water Act. The amendments allow additional flexibility in administering the Clean Water State Revolving Fund program.

DEQ:

- Held advisory committee meetings in February and March 2017
- Provided public notice of the rulemaking and opened public comment in July 2017
- Held a public hearing in August 2017

Planned EQC March 2018

Electric Vehicle Rebates 2018

Subject Matter Expert: Rachel Sakata

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503-229-5659

House Bill 2017 directed the DEQ to implement a program to issue rebates for purchasing electric vehicles. Rebate funding will be available starting June 2018, and rules must in place by then to start issuing rebates.

DEQ plans to:

- Hold an advisory committee meeting in the fall of 2017
- Provide public notice of the rulemaking and open public comment in December 2017
- Hold a public hearing in January 2018

Underground Storage Tanks 2017

Subject Matter Expert: Mitch Scheel

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503-229-6704

This rulemaking would amend Oregon rules to comply with revisions to federal rules, improve current rules by adopting previously suggested improvements and increase related fees under the authority of legislative approval. Current funding is insufficient. Failing to increase the fees and incorporate changes to federal rules could result in reductions in EPA funding and the possible loss of federal approval of Oregon's state program.

DEQ:

- Held advisory committee meetings in May and October 2016
- Plans to provide public notice of the rulemaking and open public comment in January 2018
- Plans to hold a public hearing in February 2018

Planned EQC July 2018

Cleaner Air Oregon 2017

Subject Matter Expert: Jill Inahara

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503-229-5001

On April 6, 2016, Governor Brown announced the launch of Cleaner Air Oregon, a new initiative to overhaul industrial air toxics regulations. DEQ and the Oregon Health Authority have begun a rulemaking process to propose human health risk-based rules for industrial facilities to the Environmental Quality Commission.

DEQ and OHA:

- Held webinar forums in May and June 2016
- Held technical work group meetings in June and July 2016
- Held policy forums in September and October 2016
- Held advisory committee meetings in October and November 2016
- Held fiscal advisory committee meetings in February and April 2017
- Published draft rules and opened the public comment period in October 2017
- Plan to hold public hearings in October and November 2018

Asbestos 2018

Subject Matter Expert: Michelle Martin

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503-229-5103

This rulemaking will evaluate and revise OAR Division 340, Chapter 248, DEQ's asbestos rules. The rulemaking will evaluate and clarify the rule's implementation, compliance, and enforcement requirements, to make the rules easier to understand, apply and comply with.

DEQ:

- Held an advisory committee meeting in October 2017
- Will publish notice of the rulemaking and hearing in February 2018
- Will hold a public hearing in March 2018

Title V CPI 2018 Part 1

Subject Matter Expert: Don Hendrix

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503-229-5108

The proposed rule changes would increase Title V permit fees by the 2017 and 2018 Consumer Price Index increases. This is to pay for increased program costs. Two years of CPI increases will be included in a single rulemaking as a cost-saving measure and administrative efficiency.

The current fees will not sustain the program into the future. Failure to increase Title V fees could affect DEQ's ability to maintain adequate program staff and jeopardize effective program administration. The proposed fees would address increased program costs. The proposed fee increases are necessary for DEQ to provide essential services associated with Oregon's Title V permitting program and cover DEQ's costs to operate the Title V program.

The federal Clean Air Act requires each state to fully pay for its Title V program through permit fees. Federal and state law authorize the proposed increase in Title V permitting program fees by the Bureau of Labor Statistics Consumer Price Index.

DEQ plans to:

- Likely not hold an advisory committee meeting
- Publish notice of the rulemaking and hearing in February 2018
- Hold a public hearing in March 2018

Planned EQC September 2018

Greenhouse Gas Update 2018

Subject Matter Expert: Elizabeth Elbel

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503-229-6476

Oregon's current greenhouse gas reporting rules require industrial sources with air quality permits to utilize EPA calculation methodology when reporting emissions resulting from industrial processes. Oregon's rule language requires EPA methodology by referencing the 2013 version of the federal reporting rule. Since the last update of Oregon's reporting rule EPA has modified some of the methodology. The proposed rule changes would update the reference date currently in Oregon's rule to the most recent version of the federal calculation methodology. Additionally, this rulemaking would clarify record keeping requirements for regulated parties and ask the EQC to clearly give investigatory authority in the GHG reporting rule. This would allow DEQ program staff to request all information necessary, including pertinent records needed to determine applicability and compliance with reporting, for all sectors subject to the rule.

This rulemaking will allow DEQ to require the use of current EPA methodologies for calculating GHG emissions for industrial sources and will improve the program's ability to audit data, identify regulated parties and implement the reporting requirement.

DEQ plans to:

- Hold an advisory committee meeting in November 2017
- Publish notice of the rulemaking and hearing in February 2018
- Hold a public hearing in March 2018

Heatsmart 2018

Subject Matter Expert: TBD

This rulemaking's purpose is to revise Oregon's Heat Smart program rules to incorporate federal revisions to the New Source Performance Standards for Residential Wood Heaters. Federal authority to implement the Clean Air Act is delegated to Oregon. Oregon must, therefore, have rules that are at least as stringent as the related federal rules. DEQ must update its Heat Smart program rules to match current federal standards. Currently, Oregon rules are not as strict and allow the sale of some residential wood heaters that are prohibited under federal rules.

DEQ plans to:

- Hold an advisory committee meeting in December 2017
- Publish notice of the rulemaking and hearing in March 2018
- Hold a public hearing in April 2018

Water Quality Permit Fee 2018

Subject Matter Expert: Michele Martin

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503-229-5103

This rulemaking will update water quality permit fees. This fee update will provide necessary funding for DEQ resources under the authority of ORS 468B.051 and the Legislatively Adopted Budget for 2017-19.

DEQ plans to:

- Hold an advisory committee meeting in January 2018
- Provide public notice of the rulemaking and open public comment in April 2018
- Hold a public hearing in May 2018

Planned EQC November 2018

Clean Fuels 2018

Subject Matter Expert: Cory Ann Wind

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503-229-5388

The rulemaking proposes adding new categories of credit-generating fuels and a verification system for the fuel reporting, credit and deficit generation, and fuel carbon-intensity applications. The rulemaking also proposes routine updates to the models used to calculate carbon intensities (OR-GREET & OPGEE) and indirect land use change (CCLUB & GTAP) and violations in Division 12.

This rulemaking will make the implementation of the Clean Fuels Program more robust. The new and updated provisions will provide additional assurance that the fuels that are regulated by the program are properly quantified, documented and verified. Where that is not the case, the proposed changes will help ensure the agency has the ability to take enforcement action against the errors.

DEQ plans to:

- Tentatively not hold an advisory committee meeting
- Provide public notice of the rulemaking and open public comment in February 2018
- Hold a public hearing in March 2018

HazWaste Delisting 2018

Subject Matter Expert: Rebecca Williams
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503-229-6742

The proposed rule would exclude an F 006 Hazardous Waste from the hazardous waste lists in OAR 340, Division 101. DEQ is taking this action in response to a petition submitted by a generating facility. The generator contends that, while their process does fall within a hazardous waste definition under federal regulations, the actual material produced does not meet that definition.

DEQ plans to:

- Tentatively not hold an advisory committee meeting
- Provide public notice of the rulemaking and open public comment in July 2018
- Hold public hearings in August 2018

Planned EQC November 2019

Hazardous Waste Fee 2019

Subject Matter Expert: Jeannette Acomb
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503-229-6303

This rulemaking would amend the fees charged to cover the administrative costs of monitoring, inspection and surveillance work. The program fees have been mostly unchanged for the last twenty years. The program requires additional funding to carry out its work of reducing toxic chemicals and to meet commitments under federal law.

DEQ plans to:

- Provide public notice of the rulemaking and open public comment in August 2019
- Hold public hearings in September 2019

No EQC date established

Low Emission Vehicle/Zero Emission Vehicle Update 2017

Subject Matter Expert: TBD

California has adopted many amendments to the Low and Zero Emission Vehicle rules over the last three years. This rulemaking would restore "identity" by adding these new provisions to Oregon's LEV and ZEV regulations.

Beginning in 2017, CA, the U.S. Environmental Protection Agency and U.S. Department of Transportation will conduct a comprehensive Mid-Term Review of vehicle emission limits and fuel economy standards. The auto industry is expected to press for substantial relaxation of the rules in state and federal forums during this process. By updating Oregon's LEV and ZEV rules to match California's at the beginning of this review period we will strengthen our ability to maintain strong LEV - ZEV requirements.

Air Contaminant Discharge Permit Fee Increase

Subject Matter Expert: Gerry Ebersole

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503-229-6974

The proposed rule changes would add new ACDP fees for certain construction notifications and construction permits, permit renewal, and source test review, and raise existing ACDP fees by up to 12%.

ACDP program revenue has not kept up with ACDP program costs. Inadequate ACDP program funding would result in DEQ not implementing new air quality regulations in a timely manner and not inspecting ACDP permittees for compliance with existing air quality regulations as frequently as is done now.

In 2013, ACDP fees were raised by 20% to keep up with program costs. However, ACDP program revenue for FY2017 is projected to be only 10% higher than FY2013 ACDP program revenue, the last fiscal year before the 2013 ACDP fee increase.

Federal Landfill Emission Guidelines 2017

Subject Matter Expert: Gerry Ebersole

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503-229-6974

This rulemaking will adopt rules and a state plan implementing new federal emission guidelines for landfills. DEQ is required under the Clean Air Act to adopt these new federal requirements.

The rulemaking is waiting for further information from federal authorities.

Air Toxics Benchmark Review 2016

Subject Matter Expert: Susan MacMillan

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503-229-6458

Numeric values of each of the 52 air toxics benchmarks made public in 2010 are currently presented in this rule. (OAR 340-246-0090 (3)(a through zz). DEQ needs to integrate into the rule revisions the numerical values of these benchmarks as the 2014-2016 Air Toxics Science Advisory Committee to DEQ recommended and submitted for public comment.

This rulemaking is awaiting further technical input.

Clean Power Plan

Subject Matter Expert: Colin McConnaha

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503-229-5094

This rulemaking will bring Oregon into compliance with the federal Clean Power Plan under section 111(d) of the Clean Air Act. EPA's clean power plan is intended to reduce carbon dioxide emissions from existing fossil fuel power plants. DEQ does not yet know the full scope of this rulemaking or the exact measures it will propose because DEQ is waiting for EPA to issue final rules on its proposal. DEQ is working with the Oregon Department of Energy and the Public Utility Commission in developing this proposal.

This rulemaking is awaiting federal regulatory changes.

Links

Proposed and Filed rules

DEQ's rules web page lists proposed and adopted rules.

[DEQ Rulemakings](#)

EQC Meetings

EQC meeting dates, locations and agendas are on the commission web page.

Meeting agendas include rulemaking staff reports that describe DEQ's rulemaking proposal, the process used to develop the proposed rules and the draft rules showing the proposed changes.

[EQC Meetings](#)