

# DEQ Rulemaking Plan

June 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.



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Department of  
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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](mailto: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 1-2

# Rules adopted since last report

## EQC Action January 18, 2017

### Title V Consumer Price Index Adjustment

Subject Matter Expert: Gerry Ebersole  
[ebersole.gerald@deq.state.or.us](mailto:ebersole.gerald@deq.state.or.us)  
503-229-6974

This rulemaking increased Title V permit fees by the 2015 and 2016 Consumer Price Index. This was necessary to cover increased program costs. Current fees will not sustain the program. Two years' of CPI increases were included in one rulemaking to make the rulemaking more efficient.

DEQ:

- Provided public notice of the rulemaking and opened public comment in January 2016
- Held a public hearing in February 2016

### Oakridge Attainment Plan – Lane Regional Air Protection Agency

Subject Matter Expert: LRAPA Robbye Lanier  
[Robbye@lrapa.org](mailto:Robbye@lrapa.org)  
541-736-1056, ext. 214

The U.S. Environmental Protection Agency designated Oakridge, under LRAPA's jurisdiction, a non-attainment area under 24 hour national air quality standards for fine particulate matter, also called PM<sub>2.5</sub>. The purpose of this rulemaking was to adopt a plan to help Oakridge move back into compliance with this standard.

LRAPA:

- Held an advisory committee meeting in January 2017

- Provided public notice of the rulemaking and opened public comment in October 2016
- Held a public hearing in November 2016

# Pending rulemakings

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

	2017												2018											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Legislative Session EQC Meeting																								
Current Rulemakings																								
1) <del>LevZev</del> 2017																								
2) Air Contaminant Discharge Permit Fee 2017							N	H			E													
3) Clean Fuels 2017			A	A	A		N	H			E													
4) CWSRF 2017							N	H			E													
5) Air Toxics Benchmark Review			O	N		H	O	L	D															
6) Clean Power Plan			O	N		H	O	L	D															
7) Hazardous Waste Fee 2019																								
8) Underground Storage Tanks 2017					A				N	H		E												
9) Cleaner Air Oregon 2017			A	A			N	H																
10) Federal Landfill Emission Guidelines			O	N		H	O	L	D															
11) Asbestos 2018											A			N	H			E						
Proposed Rulemakings																								
12) Dissolved Oxygen 2018								N	H			E												
13) Public Records 2018											N	H				E								
14) Heatsmart 2018															N	H			E					

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

## Planned: July 2017 EQC Agenda

### Hazardous Waste Phase II

Subject Matter Expert: Jeannette Acomb  
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 503-229-6303

This rulemaking amends 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

These amendments will align 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

## North Fork Smith River Outstanding Water Resource 2017

Subject Matter Expert: Aron Borok

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

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 proposed rule amendments would 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

## Regional Haze Update

Subject Matter Expert: Rachel Sakata

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

503-229-6549

The proposed rules will 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

## **Update Oregon Air Quality Rules to Incorporate Federal Air Quality Regulations**

Subject Matter Expert: Gerry Ebersole:

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

503-229-6974

The proposed rules would adopt 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

## **Planned EQC September 2017**

### **Water Quality Permitting Fee 2017**

Subject Matter Expert: William Knight

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

503-229-6442

This rulemaking is to institute 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
- Plans to hold a public hearing in June 2017

## **Planned EQC November 2017**

### **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.

DEQ:

- Held advisory committee meetings in April 2017
- Plans to issue a public notice in July 2017
- Plans to accept public comment and hold a public hearing in August 2017

## **Clean Fuels Program 2017**

Subject Matter Expert: Cory-Ann Wind  
[wind.cory@deq.state.or.us](mailto:wind.cory@deq.state.or.us)  
503-229-5388

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

DEQ:

- Is holding advisory committee meetings through the spring of 2017
- Plans to issue a public notice and hold public hearings in the summer of 2017

## **Clean Water State Revolving Fund 2017**

Subject Matter Expert: Lee Ann Lawrence  
[lawrence.leeann@deq.state.or.us](mailto:lawrence.leeann@deq.state.or.us)  
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
- Plans to provide public notice of the rulemaking and open public comment in July 2017
- Plans to hold a public hearing in August 2017

# Planned: February 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 August 2017
- Plans to hold a public hearing in September 2017

# April 2018

## Low Emission Vehicle/Zero Emission Vehicle Update 2017

Subject Matter Expert: Dave Nordberg

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

503-229-5519

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.

DEQ plans to:

- Publish notice of the rulemaking and open the public comment period in January 2018
- Hold a public hearing in February 2018

## Cleaner Air Oregon 2017

Subject Matter Expert: Jill Inahara

[inahara.jill@deq.state.or.us](mailto:inahara.jill@deq.state.or.us)  
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
- Plan to publish draft rules and open the public comment period in July 2017
- Plan to hold a public hearing in July or August 2017

## **Planned: June 2018**

### **Asbestos 2018**

Subject Matter Expert: Michelle Martin  
[martin.michele@deq.state.or.us](mailto:martin.michele@deq.state.or.us)  
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 will:

- Hold an advisory committee meeting in June 2017
- Publish notice of the rulemaking and hearing in September 2017
- Hold a public hearing in October 2017

## **Planned: November 2019**

### **Hazardous Waste Fee 2019**

Subject Matter Expert: Jeannette Acomb  
[acomb.jeannette@deq.state.or.us](mailto:acomb.jeannette@deq.state.or.us)  
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**

### **Federal Landfill Emission Guidelines 2017**

Subject Matter Expert: Gerry Ebersole  
[ebersole.gerald@deq.state.or.us](mailto:ebersole.gerald@deq.state.or.us)  
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  
[macmillan.susan@deq.state.or.us](mailto:macmillan.susan@deq.state.or.us)  
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](#)