



State of Oregon Department of Environmental Quality

Water Quality Fee Rulemaking

Director Report

Sept. 6, 2022

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DEQ Recommendation to the DEQ Director

The DEQ Water Quality Program recommends that Director Whitman, on behalf of the Environmental Quality Commission, adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

Introduction

DEQ invited public input on the proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules.

Request for Other Options

During the public comment period, DEQ asked for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

Overview

DEQ invited public input on proposed rule amendments to Chapter 340 of the Oregon Administrative Rules. The proposed rule amendments are to increase water quality fees in 2022 for fiscal year 2023 provided in ORS 468B.051. These fees apply to National Pollutant Discharge Elimination System permits and Water Pollution Control Facility permits.

The Water Quality Program's mission is to protect and improve Oregon's water quality. Protecting Oregon's rivers, lakes, streams, and groundwater quality keeps these waters safe so they can be used for drinking water, fish habitat, recreation, and irrigation. DEQ accomplishes this by developing and implementing water quality standards and clean water plans, issuing water quality permits, regulating sewage treatment systems and industrial dischargers, collecting, and evaluating water quality data, providing grants and technical assistance to reduce nonpoint pollution sources, and giving loans to communities to build treatment facilities.

DEQ needs the fee increase to help account for the anticipated increase in the cost of administering the permit program. This increase will also help DEQ achieve its objective for a sustainable water quality permitting program that issues timely, high quality permits, and to ensure compliance with permit conditions through inspections, enforcement, and reporting to the Environmental Protection Agency.

In October each year, DEQ publishes a permit issuance [work plan](#) to identify the individual National Pollutant Discharge Elimination System permits DEQ intends to issue in the coming year. DEQ identified 51 permits for development in the 2021 federal fiscal year (Oct. 1- Sept. 30). Permit issuance updates are provided quarterly [online](#).

Statement of need

What need would the proposed rule address?

The proposed fees will cover costs associated with sustaining the permitting program and delivering services to regulated entities. Without this increase, DEQ may need to reduce permitting staff and delay executing on improvements to the program as identified in the

document [Recommendations and Implementation Plan](#). The 2015 Oregon Legislature commissioned that report which an independent third-party consultant prepared. DEQ proposes amending rules to increase water quality fees by three percent above 2020 fees. This includes fees for the National Pollutant Discharge Elimination System and the Water Pollution Control Facility permits, including Water Pollution Control Facility permits specific to on-site septic systems. The percent increase is allowable under ORS 468B.051.

The proposed fees would address:

Fee increase allowed by statute: up to three percent increase provided under ORS 468B.051.

How would the proposed rule address the need?

DEQ must apply the new fees to invoices as of November 2022 to cover costs associated with implementing the permitting program and delivering services to regulated entities. This funding will address staffing needs and enable DEQ to sustain improvements to the program as identified in the [Recommendations and Implementation Plan report](#). The 2015 Oregon Legislature commissioned the report, which a third-party consultant completed in November 2016.

How will DEQ know the rule addressed the need?

If approved, DEQ would begin receiving fee revenue by November 2022. DEQ expects the proposed fees would sustain the needed staffing levels for the program through fiscal year 2023 that ends June 30, 2023.

Rules affected, authorities, supporting documents

Lead division

Water Quality Division

Program or activity

Water Quality Permitting and Program Development

Chapter 340 action

Amend				
340-045-0075	340-071-0800	--	--	--

Statutory Authority - ORS				
468.020	468B.020	468B.035	454.615	454.625

Statutes Implemented - ORS				
468B.050	468B.050	468B.050	468B.050	468B.050
454.775	454.780	454.784	468.020	454.605
454.607	454.610	454.615	454.625	454.655
454.665	454.675	454.695	454.725	454.745
454.755	454.780	468.035	468.045	468B.050
468B.055	468B.080	--	--	--

Legislation

Not Applicable.

Documents relied on for rulemaking

Document title	Document location
Fee increases calculations	DEQ Headquarters
Recommendations and Implementation Plan	DEQ web page: https://www.oregon.gov/deq/FilterDocs/wqp-FinalReport.pdf

Document title	Document location
DEQ 2021- 2023 Legislatively Approved Budget	DEQ Headquarters
DEQ 2021-2023 Agency Request Budget	DEQ Headquarters
DEQ's water quality permit database	DEQ Headquarters
Businesses by size or firm of 50 or fewer employees	Oregon Employment Department website reports 875 Union Street NE Salem, OR 97311 https://www.qualityinfo.org/bi

Fee Analysis

These proposed rules would: 1) increase existing fees and 2) add clarifications in fee table 9D.

Brief description of proposed fees

DEQ is proposing a fee increase to support water quality fees for fiscal year 2023 by three percent above the fiscal year 2022 fees. These fees apply to (federal) National Pollutant Discharge Elimination System permits and (state) Water Pollution Control Facility permits. DEQ is also proposing to correct three Water Pollution Control Facility Onsite Permit fee table clarifications for design capacity flows.

The fee increase rulemaking consists of the following:

Three percent increase for NPDES and WPCF fees

- OAR 340-071-0140:
 - WPCF Permit Fees; Table 9D
- OAR 340-045-0075:
 - Industrial NPDES and WPCF Individual Permits Application and Modification Fees; Table 70A
 - Industrial NPDES and WPCF Individual Permit Annual Fees; Table 70B
 - Domestic NPDES and WPCF Individual Permits, Application, Annual Modification Fees; Table 70C
 - Municipal Separate Storm Sewer System Permits, Application and Modification Fees; Table 70C
 - Domestic NPDES and WPCF Annual Population Fees, Table 70D
 - Annual Pretreatment Fees, Table 70E
 - All NPDES and WPCF Permits, Technical Activity, Plan Review and Other Fees, Table 70F
 - General NPDES and WPCF Permits, Application and Annual Fees, Table 70G, *excluding* 700PM fees under authority ORS 468B.118
 - Municipal Separate Storm Sewer System Permits; Annual Fees Table 70H
 - Underground Injection Control Permits Application Fees, Annual Fees, and Surcharges, Table 70I, *excluding* UIC fees authorized by rule, ORS 468B.195 and ORS 468B.196

Fee Table Clarifications

- WPCF Permit Fees; Table 9D
 - Plan Review Fee design capacity clarification to include 600 gpd
 - Annual Compliance Determination Fee design capacity to include of 2,500 gpd and 20,000 gpd

Reasons

The proposed fees will cover costs associated with implementing the permitting program and delivering services to regulated entities. Without this increase, DEQ would need to reduce permitting staff and delay executing on improvements to the program as identified in the document [Recommendations and Implementation Plan](#). The 2015 Oregon Legislature commissioned that report which an independent third-party consultant prepared.

DEQ proposes amending rules to increase water quality fees by three percent above 2022 fees. This includes fees for the National Pollutant Discharge Elimination System and the Water Pollution Control Facility permits, including Water Pollution Control Facility permits specific to on-site septic systems. The percent increase is allowable under ORS 468B.051.

Fee proposal alternatives considered

Not increasing fees

Without the fee increase, DEQ will be unable to provide ongoing permit program functions at current service levels. This could result in losing critical permitting program positions or having to hold those positions vacant. DEQ would also be unable to carry out recommended program improvements identified in the 2015 program evaluation.

Fee payer

The proposed fees would affect individuals, businesses, and government agencies that hold or apply for the following permits:

- National Pollutant Discharge Elimination System permits
- Water Pollution Control Facility permits

Affected party involvement in fee-setting process

DEQ appointed a fiscal advisory committee specifically to address the proposed water quality permit fees in OAR 340 divisions 45 and 71. The advisory committee included stakeholders representing domestic and industrial permit holders, state agencies, and environmental and citizen engagement organizations. The committee met once to review the proposed rule updates and to assess and comment on the fiscal impacts of DEQ's proposed permit fee increase.

Summary of impacts

With existing data, DEQ cannot determine the extent to which the proposed fees would affect each permittee or the customer and/or members of the public serviced by those permittees. DEQ anticipates some indirect impact on the public if the permit holder were to increase the cost of goods and services or fees charged to ratepayers to offset the three percent fee increase. For example, the annual fee for stormwater construction activity

performed by public agencies under a 1200-CA permit in OAR 340-045-0075, Table 70G would increase by an estimated \$41; DEQ anticipates that the increase would be divided by the population served by the public agency.

How long will the current fee sustain the program?

The current fees are not sufficient to sustain the program. When developing its 2021-23 Agency Request Budget, DEQ estimated that even with a three percent annual fee increase in 2021 and another in 2022, budgeted expenditures to maintain existing staff levels would exceed revenues by an estimated two percent. Foregoing any fee increases would require DEQ to hold positions vacant during the biennium. Current fees are not enough to carry out the modified current service level budget in 2021-23 biennium.

Table 1 below shows the increased cost of maintaining the current service level from the 2019-21 to the 2021-23 biennium, including the phased in cost of program enhancements the 2019 legislature approved in policy option packages 122 and 127. The information illustrates that fees and public funds (General Fund, Lottery Fund and Federal Funds) represent constant proportions of program costs from 2019-21 to 2021-23.

Budget Comparison				
Table 1. February 4, 2022				
(Permit fees last changed: Nov. 1, 2021)				
	2019-2021 Legislatively Adopted Budget		2021-2023 Legislatively Adopted Budget	
Program costs covered by fees	\$15,583,714	58%	\$17,719,778	58%
Program costs covered by General Fund and Lottery Fund	\$9,564,535	36%	\$ 11,065,546	37%
Program costs covered by Federal Funding	\$1,716,369	6%	\$ 1,532,064	5%

Table 2 below shows the Budget Costs justification for the three percent fee increase. The cost per full time employee (FTE) has increased 9.95% over a two-year period, which is 4.98% over a one-year period.

Budget Costs Table 2. September 2, 2022 Effective date of last fee increase: Nov. 2021 EQC adopted fee changes: Sept. 2021	
Budget Period	Cost per FTE
2019-21 Legislatively Adopted Budget	\$325,876
2021-23 Legislatively Adopted Budget (Modified current service level ¹)	\$358,305
Percent increase over a two-year period	9.95%
¹ These number have passed Department of Administrative Services' audit, and include packages 000 through 070, and adjustments made by the legislature in DEQ's budget bill (package 801) and the end-of-session bill (package 810).	

Statement of fiscal and economic impact

Increasing NPDES and WPCF fees would benefit DEQ through increased financial support. The fee change will increase costs for entities that hold the affected permits or require fee-based services.

State and federal agencies

The effect of the increase for NPDES and WPCF fees on state agencies depends on the permit type. Oregon state agencies hold approximately 116 active water quality permits.

Examples of the increase on selected permit types include:

- Industrial NPDES fee permits for Tier 2 sources, dairies and fish hatcheries, and facilities that dispose of wastewater only by evaporation from watertight ponds or basins, will increase between \$101 and \$115. This affects approximately five state agencies (OAR 340-045-0075, Table 70B).
- Annual fees for WPCF individual permits will increase between \$18 and \$583. This affects approximately five state agencies (OAR 340-045-0075, Table 70C).
- Annual fees for general NPDES and WPCF permits will increase between \$13 and \$23. This affects approximately 10 state agencies (OAR 340-045-0075, Table 70G).
- Annual compliance determination fees for WPCF permits will increase between \$1 and \$42. This affects approximately eight state agencies (OAR 340-071-0140, Table 9D).

Local governments and public

The effect of the increase for NPDES and WPCF fees on local governments depends on the permit type. Oregon local governments hold approximately 620 total active water quality permits.

Examples of local government entities include water districts, irrigation districts, cities, towns, ports, sanitary districts, library districts, counties, and school districts. For this fiscal analysis, DEQ considered ports and school districts as separate local governments even if contained within a city or county government.

Examples of the three percent fee increase on selected permit types include:

- Industrial NPDES fee permits for Tier 1 and 2 sources, dairies and fish hatcheries, and facilities that dispose of wastewater only by evaporation from watertight ponds or basins, will increase between \$101 and \$115. This affects approximately eight local governments and their permit co-permittees (OAR 340-045-0075, Table 70B).
- Domestic NPDES and WPCF individual permit annual fee increases will range from \$83 to \$3,518. The \$3,518 increase will affect one local government (OAR 340-045-0075, Table 70C).
- Annual fees for general NPDES and WPCF permits will increase between \$13 and \$23. This will affect an approximate total of 293 local government permits (OAR 340-045-0075, Table 70G).

- Annual permit processing fees for onsite systems and compliance determination fees for WPCF permits will increase between \$1 for holding tanks to \$42 for an on-site sewage lagoon with no discharge. This will affect approximately 67 local government permits (OAR 340-071-0140, Table 9D).

Large businesses - businesses with more than 50 employees

The fee increase would affect approximately 150 wastewater permit holders that are large businesses. For example, large businesses that require an industrial NPDES Tier 1 permit would pay an additional \$891 in annual fees for pulp, paper, or other fiber pulping industry permits.

Small businesses – businesses with 50 or fewer employees

According to 2018 data from the Oregon Employment Department, the fee increase may affect approximately 3,300 small businesses that hold water quality permits. However, no information is available to determine how the increase would affect each permit holder. For example, if a small business is categorized as a Tier 2 facility for food or beverage processing, including produce, meat, poultry, seafood, or dairy for human, pet, or livestock consumption, then under OAR 340-045-0075, fee Table 70B, their annual permit fee would increase by an estimated \$185 over the previous year's annual fee.

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

DEQ estimates the fee increases for wastewater permits would affect approximately 3,300 small businesses. Examples of small businesses that have wastewater permits are food processors, mining operations, dairies, fish hatcheries, smelting and refining operations, timber processors, wood products manufacturers, retail operations, seafood processors, gravel mining, wineries, construction companies, petroleum hydrocarbon cleanup operations, and vehicle and equipment wash water operations.

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

No additional activities are required to comply with the proposed rules.

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

No additional resources are required to comply with the proposed rules.

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

DEQ met with a fiscal advisory committee in spring 2022. The committee was composed of a diverse group of stakeholders representing a wide cross section of DEQ’s permit holders. During and after the meeting, DEQ requested stakeholders’ input concerning potential impacts to small businesses and how DEQ can reduce that impact. During the public comment period, DEQ requests input on whether to consider other options for achieving the rules’ substantive goals, while reducing the rules’ negative economic impact on small businesses.

Documents relied on for fiscal and economic impact

Document title	Document location
Fee increases calculations	DEQ Headquarters
Recommendations and Implementation Plan	DEQ web page: https://www.oregon.gov/deq/FilterDocs/wqp-FinalReport.pdf
DEQ 2021- 2023 Legislatively Approved Budget	DEQ Headquarters
DEQ 2021-2023 Agency Request Budget	DEQ Headquarters
DEQ’s water quality permit database	DEQ Headquarters
Businesses by size or firm of 50 or fewer employees	Oregon Employment Department website reports 875 Union Street NE Salem, OR 97311 https://www.qualityinfo.org/bi

Advisory committee fiscal review

DEQ appointed an 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
- Whether the proposed rules would have a significant adverse impact on small businesses
- Whether, if there is a significant adverse impact on small businesses, DEQ has reduced the impact on small businesses as ORS 183.540 requires

The committee reviewed the draft fiscal and economic impact statement and documented their conversation in the AC Meeting Summary on April 27, 2022 which can be found at this link: <https://www.oregon.gov/deq/rulemaking/Documents/WQFees2022m1Summary.pdf>.

The committee provided their support for the Water Quality Permitting Program's progress towards the permit backlog. The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon.

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. DEQ does not anticipate this fee rulemaking will affect building costs that could be passed on to the home buyer.

DEQ determined the proposed rules would do the following:

- Affect 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.
- Require a builder of a 6,000-square-foot parcel to pay an additional \$40 for a construction stormwater permit if the parcel is part of a common plan of development disturbing one or more acres. Assuming the 3 percent increase, this would raise the fee from \$1,348 to \$1,388.
- The proposed rule may not affect a builder of a 6,000-square-foot parcel that is not part of a common plan of development disturbing one or more acres because there is no requirement for these parcels to have a construction stormwater permit from DEQ. DEQ understands that some entities may charge a Systems Development Charge for implementing local stormwater or wastewater programs. Increased permit fees may affect housing costs through increased Systems Development Charges.

Racial Equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

Adoption of the proposed rule would affect wastewater permitting fees statewide - across various sectors, public and private. Since the fee increase will apply equally across all permit categories and tiers, and there are no expected changes to practical implementation of the permitting program activities as a result of this rule adoption, and there is no expected impact on racial equity in the state. Increasing the fees, as proposed, will help maintain program services critical to protecting public health and the environment (such as permit compliance assurance, inspections, and enforcement) which may be particularly important in BIPOC or historically underserved communities.

Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules are “in addition to federal requirements” because there are no applicable federal requirements.

What alternatives did DEQ consider if any?

Not increasing fees

Without the fee increase, DEQ will be unable to provide ongoing permit program functions at the current service level. This could result in the loss of critical permitting program positions or having to hold those positions vacant. DEQ would also be unable to implement recommended program improvements identified in a 2016 program evaluation.

Other ways to reduce program costs

DEQ has implemented measures over the past few biennia that, over time, should result in increased program efficiency and a more cost-effective program. For example, creating a permit writer team has resulted in some progress in issuing NPDES permits over the last few years. Process improvements, specifically within the permitting program, have allowed for a more efficient program and an increase in permits being renewed on an annual basis.

Land use

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 statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that 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:
 - o Resources, objectives or areas identified in the statewide planning goals, or
 - o Present or future land uses identified in acknowledged 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:

Goal	Title
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
6	Air, Water and Land Resources Quality
9	Ocean Resources
11	Public Facilities and Services
16	Estuarial 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 following proposed rules affect programs or activities that the DEQ State Agency Coordination Program considers a land-use program.

OAR 340-018-0030(5)(c) and OAR 340-018-0030(5)(d)

DEQ's statewide goal and local plan compatibility procedures adequately cover the proposed rules. Oregon Administrative Rule 340-018-0050(2)(a) ensures compatibility with acknowledged comprehensive plans through submission of a land-use compatibility statement.

EQC Prior Involvement

DEQ shared information about this rulemaking with the EQC. The commission delegated the 2022 Water Quality Fee Increase Rule to the DEQ Director for a decision through an action item on the [April 6, 2022, EQC agenda](#).

Advisory Committee

Background

DEQ convened the 2022 Fee Increase Rulemaking Fiscal advisory committee. The committee met once and included representatives from local governments, NPDES permit holders, environmental and citizen involvement organizations. Information about the committee can be found at [Water Quality Fees 2022 Rulemaking Web Page](#).

The committee members were:

Rulemaking Name Advisory Committee	
Name	Representing
Samantha Bayer	Oregon Homebuilders Association
Brannon Lamp	Aqua Resource Design and Consulting
Mark Landauer	Special Districts Association of Oregon
Peggy Lynch	League of Women Voters of Oregon
Sharla Moffett	Oregon Business and Industry
Mallorie Roberts	Association of Oregon Counties
Susie Smith	Oregon Association of Clean Water Agencies
Jackie White	Northwest Pulp & Paper Association

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
 - Water Quality Permitting
- Added advisory committee announcements to DEQ’s calendar of public meetings at [DEQ Calendar](#).

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee provided the following during the Rules Advisory Committee Meeting:

- Encouraging support for the Water Quality Permitting Program for their increased permit writing efficiency. The permit backlog has decreased from 80 percent expired to 61 percent currently.

- Due to the routine nature of this rulemaking the committee did not provide any comments or negative feedback for the fiscal impact to small businesses, local governments, or housing costs.

Public Engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing:

- On June 27, 2022, filing notice with the Oregon Secretary of State for publication in the July 2022 Oregon Bulletin.
- Posting the Notice Draft Rules on the web page for this rulemaking, located at: [Water Quality Fees Rulemaking Page](#)
- Emailing interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - DEQ Public Notices
 - Water Quality Permits
- Emailing the following key legislators required under ORS 183.335
 - Senator Kate Lieber, Chair of Senate Interim Committee on Energy and Environment
 - Senator Lynn Findley, Vice-chair of Senate Interim Committee on Energy and Environment
 - Representative Ken Helm, Chair of House Interim Committee on Agriculture, Land Use, and Water
 - Representative Mark Owens, Vice-chair of House Interim Committee on Agriculture, Land Use, and Water
 - Representative Susan McLain, Vice-chair of House Interim Committee on Agriculture, Land Use, and Water
 - Senator Kathleen Taylor, Co-Chair of Joint Interim Committee on Ways and Means Interim Subcommittee on Natural Resources
 - Representative Jeff Reardon Co-Chair of Joint Interim Committee on Ways and Means Interim Subcommittee on Natural Resources
- Emailing advisory committee members,
- Posting on the DEQ event calendar: [DEQ Calendar](#)

Public Hearing

DEQ held one public hearing. DEQ received no comments at the hearing. Later sections of this document include a summary of the three comments received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding Officers' Record

Hearing

Date	July 19, 2022
Place	Virtual Zoom Meeting
Start Time	9 a.m.
End Time	9:40 a.m.
Presiding Officer	Angela Rowland

Presiding Officer:

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

No person presented any oral testimony or written comments.

Summary of Public Comments and DEQ Responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from June 27, 2022, until 4 p.m. on July 21, 2022.

The following is a summary of the four public comments received by the close of the public comment period. Original comments are on file with DEQ. DEQ did not change the proposed rules in response to comments.

Comment 1

David Stone Springfield, OR

Summary: Commenter hopes that this rulemaking will help DEQ take enforcement responsibility more seriously. They requested DEQ provide large fee increases for facilities that do not pay on time. They also asked that the advisory committee representation has more balance to fairly represent the public interest. Finally, they requested that DEQ provide adequate time for public response after the hearing.

DEQ Response: Thank you for your comment. The rulemaking advisory committee was composed of a diverse group of stakeholders representing domestic and industrial permit holders, state agencies, and environmental and citizen engagement organizations. Compliance and enforcement are out of scope of this proposed fee rulemaking. The public hearing was held on July 19, 2022, and did not provide any new information, it is only a means for the public to make a verbal comment to DEQ on the proposed rulemaking. DEQ accepted comments within the required time frame from June 27, 2022, through July 21, 2022 (24 days).

Comment 2

Regan Olson

I support your proposal for raising fees for any entity emptying pollutants into Oregon's waterways!

DEQ response: DEQ appreciates this comment.

Comment 3

Charlene Fine, Sandy, OR

Summary: Commenter asked if the intended money is already being used appropriately and what is the amount of the proposed increase.

DEQ Response: The proposed fee increase is for 3% above the current wastewater permitting fees. This is the amount that is statutorily approved annually.

ORS 468B.051 Fees for water quality permit. Not more than once each calendar year, the Environmental Quality Commission may increase the fees established under ORS 468.065 for permits issued under ORS 468B.050. The amount of the annual increase may not exceed the anticipated increase in the cost of administering the permit program or three percent, whichever is lower, unless a larger increase is provided for in the Department of Environmental Quality's legislatively approved budget.

Without the fee increase, DEQ will be unable to provide ongoing permit program functions at current service levels. This could result in losing critical permitting program positions or having to hold those positions vacant.

The fee tables start on page 27 of [this Notice of Rulemaking PDF packet](#). The permit issuance plans below paint the picture of how many permit actions were completed in 2021 and 2022 with the previous fee structure:

Water Quality NPDES Individual Permit Issuance Plans

- [Federal Fiscal Year 2022](#) (Currently in process and will be finalized by the end of the federal fiscal year on Sept 30, 2022)
- [Federal Fiscal Year 2021](#) (Final for federal fiscal year 2021)

Comment 4

Fred Meyer

Summary: Water should not smell bad.

DEQ response: DEQ's Water Quality Permitting Program mission is to protect and improve Oregon's surface and groundwater by issuing and renewing permits on schedule through a defined, consistent process, and utilizing existing legal and regulatory authorities. This rulemaking will help provide the resources needed to continue to provide Oregon with clean water.

Implementation

Notification

The proposed rules would become effective upon filing on approximately Nov. 1, 2022. DEQ will notify affected parties by:

- Emailing interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - Water Quality Permits
 - Onsite
- Posting notification on relevant, DEQ permit-related webpages

Compliance and enforcement

Affected parties: Water Quality permit holders

DEQ staff: Water Quality staff by email

Systems

Website - Water Quality staff to add notification to relevant webpages

Database – Water Quality staff by email.

Invoicing - Water Quality staff by email.

Training

Affected parties - Water Quality permit holders.

DEQ staff - Water Quality staff by email.

Five Year Review

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts all of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).
- Implement legislatively approved fee changes. ORS 183.405(5)(c).

Accessibility Information

You may review copies of all documents referenced in this announcement at:
Oregon Department of Environmental Quality
700 NE Multnomah St., Ste. 600
Portland, OR, 97232

To schedule a review of all websites and documents referenced in this announcement, call Angela Rowland, Portland, OR, (503)229-5740. (800-452-4011, ext. 5622 toll-free in Oregon).

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.