

# 1200-Z Industrial Stormwater General Permit Rulemaking

## Advisory Committee Charter

Revised September 30, 2019

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### Industrial Stormwater

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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

*September 30, 2019 revision includes dates for committee meetings, updated meeting topics, and the Website address for the DEQ rulemaking Webpage.*

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](mailto:deqinfo@deq.state.or.us).



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# Objectives and Scope

## Background

On August 17, 2018, DEQ entered into a Consent Judgement with Northwest Environmental Defense Center, Columbia Riverkeeper, and Oregon Industrial Stormwater Group as an intervener regarding the 1200-Z industrial stormwater general permit renewal. In summary, DEQ committed to:

- By October 31, 2018, DEQ will issue a final revised 1200-Z permit in accordance with ORS 183.484(4) that affirms or modifies the 1200-Z issued on August 1, 2017;
- By October 30, 2020, DEQ will release for public review and comment a revised draft 1200-Z permit and;
- By March 30, 2021, DEQ will issue a final revised 1200-Z permit along with written responses to public comments received on the draft revised 1200-Z permit.

On October 22, 2018, DEQ reissued the 1200-Z incorporating several short-term changes from a Settlement Agreement by the parties signed in August 2018. The remaining terms of Settlement Agreement will be considered as DEQ works on the permit renewal. The Settlement Agreement also defines the scope for the rulemaking advisory committee meetings. The details begin on page nine of the Settlement Agreement. In summary, DEQ committed to the following:

- A process for considering proposed numeric technology-based effluent limitations, TBELs, or, alternatively, proposed numeric technology-based benchmarks for the pollutants copper, lead, zinc, and total suspended solids;
- A process to consider one or more proposed site-specific, TMDL-specific, or state-wide numeric water quality-based effluent limitations, WBELs related to impaired waters; and
- Development of appropriate monitoring and reporting requirements to ensure and verify compliance at discharge point(s) identified in each permit registrant's stormwater pollution control plan, with numeric TBELs, WQBELs, or benchmarks included in the permit revision.

## Purpose and Goals

The purpose of the advisory committee is to provide input to DEQ on the elements of the 1200-Z industrial stormwater general permit renewal associated with the Settlement Agreement. Specifically, DEQ will be seeking input on the evaluations, methodologies, and appropriate scale for considering numeric water quality-based effluent limitations for impaired waters and numeric technology-based effluent limitations or benchmarks for copper, lead, zinc and total suspended solids. The committee will also consider appropriate monitoring and reporting requirements in relation to effluent limitations or benchmarks.

DEQ's goal is to use the input from the advisory committee to develop a high quality, implementable and legally defensible 1200-Z industrial stormwater general permit that is appropriate for Oregon.

## Rulemaking

DEQ has authority under OAR 340-045-0033(1) to issue general permits by rule and by order. DEQ will issue the next 1200-Z industrial stormwater permit renewal by rule. Due to the large number of permit registrants (830+), broad public interest and technical complexities, DEQ has determined that the rulemaking process is appropriate to ensure transparency for all interested in the process.

## Timelines

Under state and federal regulation, the 1200-Z industrial stormwater general permit will be effective for a fixed term not to exceed five years. Based on Multnomah County consent judgement in Case No. 17CV42254, DEQ will release for public review and comment a revised draft 1200-Z permit by October 30, 2020, and a final 1200-Z permit in rule by March 30, 2021.

DEQ anticipates that the advisory committee will meet periodically starting May 2019 through mid-2020.

DEQ has not determined the EQC meeting date in late 2020 or early 2021 to present the proposed 1200-Z industrial stormwater permit rulemaking. Information about this rulemaking and an option to receive emails about updates regarding this rulemaking are online: [1200-Z Industrial Stormwater Discharge Permit Renewal](#).

## Scope

The advisory committee is comprised of individuals with diverse perspectives, unique knowledge, and varied skills. As a group we will review reports, industrial monitoring data, the 1200-Z permit, Washington State and EPA permit conditions, and water quality information. Committee members bring a broad array of expertise and will be asked to contribute on relevant meeting content. DEQ anticipates committee members to assist in determining appropriate permit conditions that protect water quality, meet the elements of Settlement Agreement, develop clear and implementable requirements that are scientifically based and legally defensible.

The technical discussions will provide insights and considerations to DEQ on the following: strengths and limitations of key water quality issues and data analyses; policy implications; and input on the appropriate extent and scale of monitoring requirements.

DEQ will analyze and consider all of the input provided throughout the advisory committee process. All meeting summaries will be posted online, [1200-Z Industrial Stormwater Discharge Permit Renewal](#), along with DEQ's evaluations and considerations of the input provided by the advisory committee.

The scope of the proposed changes to the current 1200-Z permit includes the outcome of the various analyses and topics associated with the elements in the Settlement Agreement discussed with the advisory committee, any specific requirements that may need consideration if the federal multi-sector general permit is reissued before DEQ's permit reissuance, and any clarifications or corrections needed. The federal industrial stormwater permit litigated settlement terms requires a draft of the multi-sector general permit by November 2019, nine months after the National Research Council final report issue date, but not after September 1, 2020.

## Fiscal and Economic Impact

ORS 183.333 requires that DEQ ask the committee to consider the fiscal and economic impact of the proposed rules, including:

- Whether the rules will have a fiscal impact, and if so, what the extent of that impact will be?
- Whether the rules will have a significant adverse impact on small businesses, and if so, how can DEQ reduce the rules' negative fiscal impact on small businesses?

DEQ will develop the information regarding the fiscal and economic impacts based on the results of the advisory committee discussions and proposed changes to the permit.

# Roles

## Committee Members

Advisory committee members must attend each meeting to ensure continuity throughout the process.

An alternate may be assigned if needed. However, it is each committee member's responsibility to fully brief their alternate on all relevant issues and prior committee discussions to meet the meeting objectives and keep the project on schedule. The primary and alternate members of the committee cannot participate in the same meeting. If a member's absence is unavoidable, please notify Krista Ratliff, [ratliff.krista@deq.state.or.us](mailto:ratliff.krista@deq.state.or.us) or 541-633-2033.

### 1. Responsibilities of the chair, Stacy Hibbard:

- Directs conversation to maintain focus on intended outcomes
- Facilitate comments and input from the public (if applicable)
- Respect time commitments
- Reviews meeting summaries
- Liaison for fellow committee members for input and discussion

### 2. Responsibilities of the committee members:

- Attend all meetings to ensure continuity throughout the process
- Prepare by reading all relevant documents and set aside time for the meetings
- Provide DEQ with copies of relevant research and documentation cited during the meeting
- Carefully consider and analyze to the extent possible technical and policy issues
- Stay focused on the specific topics for each meeting
- Comment constructively and politely
- Treat everyone with respect and assume good intentions when opinions differ
- Listen, speak one person at a time
- Be courteous by not engaging in sidebar discussions or working on phones or laptops
- Avoid representing to the public or media the views of any other committee member or the committee as a whole
- Make a sufficient time commitment to material content and discussion ideas
- Articulate clear and distinct messages
- Speak to be understood – limit technical jargon or acronyms

<b>Advisory Committee Members</b>	
<b>Name</b>	<b>Affiliation</b>
Ada Banasik	Maul Foster & Alongi, Inc.
Alan Flemming	Kennedy/Jenks Consultants
Chris Rich	Perkins Coie
Debbie Deetz Silva	EVRAZ North America
Jamie Saul	Earthrise Law Center representing: Columbia Riverkeeper
Jonah Sandford	Northwest Environmental Defense Center
Kathryn VanNatta	Northwest Pulp and Paper
Michael Campbell	Stoel Reeves
Stacy Hibbard (Chair)	City of Portland, Bureau of Environmental Services

## **Non-Committee Member Attendees**

Those who attend the committee meetings, but are not members of the committee, are there only to observe and not to actively participate. If time allows and the advisory committee determines outside input is invaluable to discussion, the committee has discretion to permit public participation. Anyone who is interested in providing feedback will be able to do so during DEQ’s public comment period.

## **DEQ**

The DEQ project lead, Krista Ratliff, will provide agenda and meeting materials to the work group at least two weeks in advance. The note taker, Courtney Brown, will draft meeting summaries that highlight work group discussions, different perspectives, and input of work group members. Courtney will send draft meeting summaries to the chair, Stacy Hibbard, for review and any corrections. Final meeting summaries will be posted to DEQ’s website and will be part of the public record.

DEQ is committed to making the most effective use of committee member’s time by:

- Providing relevant meeting materials at least two weeks prior to scheduled meeting
- Establishing clear committee goals, meeting objectives and agendas
- Encouraging all members to take part in discussions
- Providing a clear description of members’ roles, the committee timeline, the level of agreement expected and feedback on how members’ input is used

DEQ Members			
Name	Email	Phone	Area of Expertise
Krista Ratliff	<a href="mailto:ratliff.krista@deq.state.or.us">ratliff.krista@deq.state.or.us</a>	(541) 633-2033	Program Lead
Michele Martin	<a href="mailto:martin.michele@deq.state.or.us">martin.michele@deq.state.or.us</a>	(503) 229-5103	Facilitator
Courtney Brown	<a href="mailto:brown.courtney@deq.state.or.us">brown.courtney@deq.state.or.us</a>	(503) 229-6839	Note Taker
Christine Svetkovich	<a href="mailto:svetkovich.christine@deq.state.or.us">svetkovich.christine@deq.state.or.us</a>	(503) 229-6991	Water Quality Manager
Justin Green	<a href="mailto:green.justin@deq.state.or.us">green.justin@deq.state.or.us</a>	(503) 229-6834	Water Quality Division Administrator
Diane Lloyd	<a href="mailto:Diane.lloyd@state.or.us">Diane.lloyd@state.or.us</a>	(971) 673-1911	Assistant Attorney General, Natural Resources
Meyer Goldstein	<a href="mailto:goldstein.meyer@deq.state.or.us">goldstein.meyer@deq.state.or.us</a>	(503) 229-6478	Rules Coordinator

## DEQ Facilitator

Responsibilities of the facilitator, Michele Martin:

- Encourages open, candid, and robust dialogue from each member
- Starts and ends the meetings and agenda items on time
- Encourages innovation by listening to all ideas
- Endeavors to capture good ideas
- Recognizes when the discussion is outside the scope of the meeting and steers the discussion back to the focus of the meeting
- Tracks parking lot issues
- Neutral and objective

## DEQ Note Taker

Responsibilities of the note taker, Courtney Brown:

- Circulates the sign-in sheet
- Reviews meeting materials
- Prepares meeting summaries and action items
- Documents findings
- Ask questions when needs clarity
- Captures discussions and records DEQ responses
- Develops public record of meeting content
- Records parking lot issues

# DEQ Support and Website

DEQ will post agenda and meeting materials on the advisory committee website at least two weeks in advance. Meeting summaries will be developed that highlight committee discussions, different perspectives and input of committee members. DEQ will not prepare a formal committee report. Although the chair has the responsibility for reviewing draft meeting summaries, the final meeting summaries will be corrected if committee members find errors or discrepancies. Final meeting summaries will be posted to the advisory committee website and will be part of the public record.

The advisory committee charter, committee roster, meeting agendas and summaries, and background materials will all be located on the advisory committee webpage: [1200-Z Industrial Stormwater Discharge Permit Renewal](#).

## Committee Meetings

1. All committee meetings will be:
  - Open to the public
  - Advertised on DEQ's website calendar two weeks before the meeting at: [DEQ Event Calendar](#)
  - Posted to DEQ's rulemaking website
  - Stakeholder GovDelivery emails sent to following topic groups:
    - 1) Stormwater
    - 2) Rulemaking
  - Accessible via a call-in number and/or webinar
2. The committee is expected to meet five or six times; likely all meeting locations will be in the Willamette Valley.
3. All meeting materials will be posted in advance of the meeting date, [online](#) here: <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/r1200Z.aspx>

### Meeting #1, May 7, 2019

- Overview, charter, scope and ground rules
- Project background and settlement constraints
- Rulemaking objectives
- Committee concerns or schedule conflicts
- Time frames and meeting material delivery preferences
- National Academies of Sciences Report
  - Determine how much of the report can be used as model
  - In-depth discussion on applying applicable conditions to Oregon
  - Identify and track any additional technical gaps

### Meeting #2, September 4, 2019

- Washington State Ecology's permit numeric effluent limitations, Table 6
- Water-quality effluent limitations for impaired waters
- Review water quality data and TMDLs
- Brainstorm on scope and scale
- Methodology for setting reference concentrations

- Acute criterion
- Chronic criterion
- Human health criterion

**Meeting #3, November 13, 2019**

- Numeric technology-based effluent limitation for copper, lead, zinc and total suspended solids
- Review industrial data analyses
- BMP clearinghouses
- Wet weather flows
- Monitoring requirements
- Brainstorm on scope and scale

**Meeting #4, January 22, 2020**

- Permit compliance strategies
- Review EPA permit
- Technical methodology for effluent limitations
- Variability of stormwater and flows
- Alternative opportunity for site-specific TBEL analyses

**Meeting #5, March 18, 2020**

- Review of findings and input
- Columbia Slough analyses
- Benchmark development

**Meeting #6, May 13, 2020**

- Parking lot items
- Final review of findings and input
- Fiscal impact statement

The meeting duration times above may vary depending on topics and committee progress.

## **Decision Making**

DEQ will not seek consensus recommendations from the work group, although DEQ will ask for input from each individual member and gauge the work group’s overall level of support for proposed methodologies.

DEQ will weigh the input of the committee, input from EPA with regard to conformance with federal requirements and guidance, technical feasibility of methodologies, cost, implementation, and other relevant factors. DEQ will strive to bring as much information as possible related to these factors to help make decisions and to provide transparency. Additional information and reports by committee members are welcomed; however, all meeting materials must be provided as soon as reasonable to provide for review and inclusion in the agenda.

# Travel Expenses

DEQ is able to reimburse any in state, out-of-town committee members for travel expenses. Members must use the DEQ travel expense reimbursement for and submit expenses monthly. Reimbursement will be made to the extent the budget allows. Original receipts are not required for meal reimbursement.

Travel Expense Claims with original receipts should be mailed to:  
Oregon Department of Environmental Quality ATTN: Krista Ratliff  
475 NE Bellevue Dr., Suite 110  
Bend, OR 97701  
Otherwise, please email expenses to [ratliff.krista@deq.state.or.us](mailto:ratliff.krista@deq.state.or.us)

## Eligible Costs

### Transportation

As of January 1, 2019, private vehicle mileage will be reimbursed at \$0.58 per mile. Please provide a printout from a mileage calculating website showing the trip starting point and destination as well as the total mileage. Miscellaneous transportation expenses such as parking and shuttle fees may also be reimbursed.

### Meals - Day Trips

Meal allowances are provided under the following conditions:

Breakfast \$16.50 - When member is required to leave their residence or place of business on or before 6:00 AM.

Lunch - no lunch allowance is provided on day trips.

Dinner \$33.00 - When member is required to return to their residence or place of business on or after 7:00 PM.

**NOTE:** Meal allowances that do not involve an overnight stay are taxable income to the advisory committee member.

## Public Records and Confidentiality

Committee communications and records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records and are available. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings. However, the private documents of individual committee members generally are not considered public records if DEQ does not have copies.

## Information Exchange

Committee members will provide information as much in advance as possible of the meeting at which such information is used. The members will also share all relevant information with each other to the

maximum extent possible. If a member determines the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it.

## **Public Involvement**

All meetings will be open to the public. The committee has discretion to decide whether to allow public input during committee meetings.

Once the committee process is complete, DEQ will develop draft rules and initiate the formal rulemaking process. That process will include a specified period during which the public can submit comments on the proposed rules. DEQ will also hold a public hearing during which anyone interested can submit written or verbal comments. Individual committee members may provide comments to DEQ on the full draft rule at this time. DEQ may modify the final proposed rules based on public comment. DEQ will then recommend a final proposed rule to the Environmental Quality Commission for approval.