

DEQ Rulemaking Plan

Oct. 14, 2020



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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DEQ can provide documents in an alternate format or in a language other than English upon request.
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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 Air Quality Rules Coordinator, Emil Hnidey, at hnidey.emil@deq.state.or.us or 503-229-5946.

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.

A committee of DEQ's leadership team and the director review all proposed rulemaking concepts and considers how each concept aligns with DEQ priorities. They then determine 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

2020

January 23-24

March 18

May 7-8

July 16-17

September 17-18

November 19-20

Rules adopted since last report

September 2020

Air Contaminant Discharge Permit Fees 2020

Subject Matter Expert: Daniel Defehr

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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 revenues have 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.

DEQ:

- Held advisory committee meetings in November and December 2019
- Published the notice of rulemaking and opened the public comment period in January 2020
- Held a public hearing in February 2020

Drug Take-Back Program 2020

Subject Matter Expert: Michael Lee

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503-229-6832

During the 2019 session, the legislature adopted HB 3273 that establishes a drug take-back program. The legislation requires DEQ to adopt rules to implement the program. The proposed rules would help establish the Drug Take-Back Program, a statewide product stewardship program for safely disposing of unused medications in Oregon.

DEQ:

- Held advisory committee meetings in March and April 2020
- Published the notice of rulemaking and opened the public comment period in June 2020
- Held a public hearing in July 2020

Pending rulemakings

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

September 1, 2020	2020					2021											
	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Legislative Session																	
EQC Meeting		E		E		E		E		E		E		E		E	
1) VIP Updates 2020		N	H	E													
2) Waldo & Crater Lakes				E													
3) Air Quality/Fed Regs.	N	H		E													
4) Klamath MP						E											
5) 1200Z Permit			N	H		E											
6) VW Grants			N	H		E											
7) CWSRF			N	H				E									
8) High Hazard Railroad Contingency Planning			N	H				E									
9) Clean Fuels Plan - Electricity			A		N	H		E									
10) Regional Haze			A		N	H						E					
11) Air Toxics/CAO Update			A			N	H					E					
12) HB 2007 Retrofit			A				N	H				E					
13) Landfill Gas Emission Updates 2021							A	N	H			E					
14) WQ Permit fees 2021									N	H					E		
15) Hazardous Waste Fed Alignment								A						N	H	E	
16) GHG Emissions Cap and Reduce Program											A		N	H		E	
17) Air Quality Permitting Updates 2021									A			N					E
ON HOLD	Precision Cast Parts Delisting; Clean Power Plan; Public Records; Heatsmart; Onsite, Title V CPI																
A – Advisory Committee H – Public Hearing E – EQC Meeting																	

Planned EQC November 2020

1) VIP Updates 2020

Subject Matter Expert: Karen Williams
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503-229-5519

DEQ updated its Vehicle Inspection Program rules. Some revisions were necessary for ozone NAAQS compliance rules that are no longer necessary. The rules also needed to be updated for vehicle year exemptions and new vehicle types.

DEQ:

- Will hold an advisory committee meeting in July 2020
- Will publish notice of the rulemaking and open the public comment period in September 2020
- Will hold a public hearing in October 2020

The EQC adopted these rules as temporary rules in May 2020. With further refinements, the rules will be presented to EQC for permanent adoption in November 2020.

2) Waldo and Crater Lakes Outstanding Resource Waters 2020

Subject Matter Expert: Debra Sturdevant
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As part of its antidegradation policies, DEQ has the authority to declare water bodies as Outstanding Resource Waters. (OAR 340-041-0004). Outstanding Resource Waters are high quality waters that have extraordinary or unique character or ecological value, or are critical habitat areas, such that they constitute an outstanding state or national resource. The special water quality and ecological values of these waters must then be protected in accordance with Oregon's antidegradation policy.

At its July 18, 2019, meeting, the Environmental Quality Commission granted two petitions for rulemaking requesting that DEQ designate Waldo and Crater Lakes as Outstanding Resource Waters. The proposed rule amendments would establish that designation. (ORS 183.390; OAR 340-011-0046, 137-001-0070).

DEQ:

- Held advisory committee meetings in May and June 2020
- Published the notice of rulemaking and opened the public comment period in July 2020
- Will hold a public hearing in August 2020

3) Air Quality Rules to Address Federal Regulations 2020

Subject Matter Expert: Daniel DeFehr
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541-687-6442

This rulemaking is intended to accomplish these tasks:

- Meet requirements under the Clean Air Act to adopt rules and implement revised federal standards
- Meet EPA requirements to update certain air quality rules every two years
- Remove duplicate Division 244 Art Glass rules adopted into Division 245

DEQ plans to:

- Publish notice of the proposed rule changes and open a public comment period in August 2020
- Hold a public hearing in September 2020

Planned EQC January 2021

4) Klamath Falls Maintenance Plan 2021

Subject Matter Expert: D Wu

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503-229-5269

This area has been under an attainment plan. As the area reaches attainment, a maintenance plan must be put into place. DEQ will conduct advisory committees to include community and technical representatives to develop the details of the maintenance plan. The plan will then be incorporated into administrative rule.

DEQ plans to:

- Hold advisory committee meetings
- Publish the notice of rulemaking and open the public comment period in 2020
- Hold a public hearing in 2020

5) 1200-Z Permit 2020

Subject Matter Expert: Christine Svetkovich

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503-229-6991

The 1200-Z permit regulates stormwater discharge associated with industrial activity that may reach surface waters of the state directly or discharge through conveyance systems, such as ditches or storm drains that reach surface waters of the state. This rulemaking is to re-issue the 1200-Z permit by March 20, 2021, in response to a settlement made between DEQ, Columbia Riverkeeper, Northwest Environmental Defense Center, and the Oregon Industrial Stormwater Group. DEQ is conducting this process as a rulemaking, rather than through the order procedure, in order to allow more opportunities for public participation and collaboration.

The settlement agreement requires that DEQ establish and implement a formal process for considering and developing numeric technology-based effluent limits (TBEL'S) and numeric water quality-based effluent limits (WQBEL's) for 1200-Z registrants.

DEQ:

- Has been holding advisory committee meetings
- Plans to publish the notice of rulemaking and open the public comment period in October 2020
- Plans to hold a public hearing in November 2020

6) Volkswagen Grant Program 2020

Subject Matter Expert: Gerik Kransky

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503-229-5177

In the 2019 session, the Oregon legislature adopted HB 2007. The bill established a number of changes to Oregon's clean diesel program. DEQ must amend its clean diesel rules to comply with the statute. Specifically, the bill requires DEQ to develop a program to grant money to reduce diesel pollution in Oregon. DEQ will use money received from the Volkswagen litigation settlement to fund this program.

DEQ:

- Held advisory committee meetings beginning in spring 2020
- Plans to publish the notice of rulemaking and open the public comment period in the fall of 2020
- Plans to hold a public hearing in the fall 2020

Planned EQC March 2021

7) Clean Water State Revolving Fund 2020

Subject Matter Expert: Lee Ann Lawrence

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503-229-5622

The statutory changes made through Senate Bill 884 (2019) changed Oregon's Clean Water State Revolving Fund definition of eligible borrowers from solely public entities. This will allow lending to non-profit Community Development Financial Institutions (CDFIs) certified by the US Department of Treasury. The purpose was to authorize lending to individual homeowners for septic repair, septic replacement and connection to an available sewer system. DEQ must adopt the change along with rule changes necessary to make this new kind of lending operable.

The proposed rule changes will include programmatic and financial criteria and processes that will allow the CWSRF to lend to non-profit CDFIs while safeguarding the integrity and perpetuity of the CWSRF loan program. Changes will include basic eligibility, loan terms and creditworthiness requirements.

DEQ plans to:

- Hold advisory committee meetings beginning in the summer of 2020
- Publish the notice of rulemaking and open the public comment period in October 2020
- Hold a public hearing in November 2020

8) High Hazard Railroad Contingency Planning 2021

Subject Matter Expert: Kyrion Gray

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503-229-5280

DEQ is proposing rule amendments to add high hazard rail line provisions to current oil spill contingency planning requirements. Current rules only anticipate oil spills from vessels, pipelines, and facilities. The current

rules are complete with regard to what goes into a contingency plan and the new laws are very prescriptive about what DEQ can require in the HHTR rules. The amendments to the rules will address conditions unique to railroads and the types of crude oil carried by rail including detection of non-floating oils and health factors such as respiratory protection for response personnel.

DEQ plans to:

- Hold advisory committee meetings in spring 2020
- Publish the notice of rulemaking and open the public comment period in October 2020
- Hold a public hearing in November 2020

9) Clean Fuels Plan - Electricity 2021

Subject Matter Expert: Cory-Ann Wind

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503-229-5388

Senate Bill 1044 (2019) directed state agencies to take action to improve Oregon's air quality. Governor Brown's Executive Order 20-04 implements that bill by directing state agencies to take actions concerning greenhouse gases. This rulemaking is to maximize the generation and aggregation of electricity credits in the Clean Fuels Program to meet the requirements of those directives.

DEQ plans to:

- Hold advisory committee meetings in the fall of 2020
- Publish the notice of rulemaking and open the public comment period in December 2020
- Hold a public hearing in January 2021

Planned EQC July 2021

10) Regional Haze Update

Subject Matter Expert: D Wu

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503-229-5269

“Regional haze” is air pollution that is transported long distances and reduces the visibility in these areas. The federal Clean Air Act contains requirements for states to protect and improve visibility in national parks and wilderness areas in the country. In 1977 Congress designated certain national parks and wilderness areas as “Class I areas”, where visibility was identified as an important value. Oregon has 12 Class I areas, including Crater Lake National Park and 11 wilderness areas.

On June 19, 2009 the Environmental Quality Commission adopted a regional haze plan for Oregon. On Dec. 9, 2010, the Commission adopted revisions to the plan that would ultimately close the PGE Boardman coal-fired power plant by 2020 but also put in place a number of other strategies that would improve visibility in Class I areas.

This rulemaking will update Oregon’s maintenance plan, add additional control measures, and demonstrate reasonable progress. These changes are intended to meet EPA requirements.

DEQ plans to:

- Hold advisory committee meetings in the fall of 2020
- Publish the notice of rulemaking and open the public comment period in December 2020
- Hold a public hearing in January 2021

11) Air Toxics and Cleaner Air Oregon Program Alignment and Updates 2021

Subject Matter Experts:

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503-229-5178

Updates to Oregon Administrative Rules Division 245 (Cleaner Air Oregon program rule) are needed to address unintended gaps and incongruities, incorrect references or linkages to other AQ program rules, and to make other changes that will improve implementation of the CAO program. This is essentially a “housekeeping” rulemaking, but also makes some improvements to create more effective and smoother implementation.

Harmonizing CAO (Division 246) and existing air toxics rules in Division 246 is necessary to integrate the existing air toxics program rules with the new CAO rules. Some parts of Division 246 are outdated and can be removed. Others, such as the role of the Air Toxics Science Advisory Committee (ATSAC) and the Ambient Benchmark Concentration (ABC) concept, need to be reevaluated and synchronized with Division 245.

These changes are especially important because DEQ is required to initiate a review of the Toxicity Reference Values, and other risk standards, in 2021. As outlined in Division 245, the review process must take place every three years, starting with the first triennial review in November 2021. Specifically, updating the values will require clarifying the relationship between ATSAC and ABCs established in Division 246 (Air Toxics program rules), Toxicity Reference Values (TRVs) and related values established in Division 245. Some amendments are likely necessary in Division 246 before that rulemaking begins, to prevent confusion and asynchronous program requirements.

DEQ plans to:

- Hold advisory committee meetings in the fall of 2020
- Publish the notice of rulemaking and open the public comment period in January 2021
- Hold a public hearing in February 2021

12) HB 2007 Retrofit Registration 2021

Subject Matter Expert: Rick Reznick

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[HB 2007 \(2020\)](#) requires EQC to adopt criteria and a certification process for approved retrofit technology on certain year diesel engines that power a medium or heavy duty truck. The rules will stand up a new program in the Vehicle Inspection Program. Owners of trucks subject to HB 2007 will submit retrofit compliance information to the program in order to be able to renew registration from ODOT.

DEQ plans to:

- Hold advisory committee meetings in the fall of 2020
- Publish the notice of rulemaking and open the public comment period in February 2021
- Hold a public hearing in March 2021

13) Landfill Gas Emission Updates 2021

Subject Matter Expert:

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503-229-5125

The primary goal of this project is to develop and adopt more stringent landfill gas emission rules to meet Executive Order 20-04 to reduce and regulate greenhouse gas emissions. The specific language from the order is as follows:

D. Regulation of Landfill Methane Emissions. The EQC and DEQ shall take actions necessary to reduce methane gas emissions from landfills, as defined in ORS 459.005(14), that are aligned with the most stringent standards and requirements for reducing methane gas emissions from landfills adopted among the states having a boundary with Oregon.

Once the rules are adopted, DEQ will update permits as necessary and work with landfill owners and operators to understand and comply with the new emission requirements.

Planned EQC September 2021

14) Water Quality Permit Fees 2021

Subject Matter Expert:

Angela Rowland

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503-229-5740

This rulemaking updates permit fees for divisions 045 and 071. The fee update will provide necessary funding for DEQ resources under the authority of ORS 468B.051 and the legislative adopted budget for 2021-2022.

DEQ plans to:

- Hold advisory committee meetings in February 2021
- Publish the notice of rulemaking and open the public comment period in May 2021

- Hold a public hearing in August 2021

Planned EQC November 2021

15) Hazardous Waste Federal Rules Alignment 2021

Subject Matter Expert: Jeannette Acomb

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503-229-6303

This rulemaking's purpose is to align Oregon rules and programs with revised federal requirements. EPA delegates authority to the agency to operate the federal RCRA hazardous waste program in Oregon. The agency must periodically review and adopt new or amended federal rules to retain this delegated federal authority. DEQ last updated its rules in July 2017, and incorporated by reference most federal rules enacted through June 30, 2015. This rulemaking will amend DEQ's administrative rules to incorporate changes in federal regulations.

DEQ plans to:

- Hold advisory committee meetings in the spring of 2021
- Publish the notice of rulemaking and open the public comment period in August 2021
- Hold a public hearing in September 2021

16) Greenhouse Gas Emissions Cap and Reduce Program 2021

Subject Matter Expert:

Lauren Slawsky

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503-229-5186

Governor Brown's Executive Order 20-04 addresses greenhouse gas emissions. In part, that order requires DEQ to take certain actions and establish certain programs in support of the order's goals. This rulemaking amends DEQ's enforcement rules and rules concerning greenhouse gas reporting requirements to support the greenhouse gas emissions programs.

DEQ plans to:

- Hold advisory committee meetings June 2021
- Publish the notice of rulemaking and open the public comment period in August 2021
- Hold a public hearing in September 2021

17) Air Quality Permitting Updates 2021

Subject Matter Expert:

Jill Inahara

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503-229-5001

The proposed rule changes will restrict or eliminate the 10-day default approval for Type 1 Notice of Intent to Construct (NC) applications. In addition, the NC rules will be clarified for easier implementation. We are proposing no expiration dates on Simple, General and Basic permits unless changes are needed. This change will help with the AQ permit backlog. The majority of the proposed rule changes: provide clarity, especially when rules conflict; allow for only electronic submittals; and are housekeeping changes to correct cross-references and other errors.

DEQ plans to:

- Hold advisory committee meetings April 2021
- Publish the notice of rulemaking and open the public comment period in July 2021
- Hold a public hearing in September 2021

No EQC date established

Precision Cast Parts Delisting 2020

Subject Matter Expert: Seth Sadofsky

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541-687-7329

The proposed rule amendments would remove a waste product from being listed as an F006 hazardous waste. The material is produced by Precision Cast Parts in Portland. Federal law allows DEQ to delist such a waste from being categorized as hazardous if the entity producing the waste can demonstrate certain characteristics about the waste.

Wastewater filter cake sludge produced at PCP is currently managed as F006 listed hazardous waste. As described in OAR 340-100-0022, PCP seeks to demonstrate to DEQ that its currently listed F006 waste does not contain the constituents for which it was listed in the federal regulations and also does not contain characteristic hazardous waste. It therefore should legally be possible to manage this material as a non-hazardous waste at a permitted, lined landfill.

DEQ plans to:

- Publish the notice of rulemaking and open the public comment period in June 2020
- Hold a public hearing in July 2020

Title V CPI 2020 Phase I

Subject Matter Expert: Don Hendrix

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503-229-5108

The proposed rule changes would increase Title V permit fees by the 2019 and 2020 Consumer Price Index increases 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 increase in Title V permitting program fees by the Bureau of Labor Statistics Consumer Price Index is authorized by federal and state law. 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. DEQ provides rule and policy development along with reporting to EPA.

DEQ will:

- Hold an advisory committee meeting in November 2019
- Publish the notice of rulemaking and open the public comment period in January 2020
- Hold a public hearing in February 2020

Onsite Rules Update

Subject Matter Expert: Randy Trox

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541-687-7338

DEQ is conducting a rulemaking to update its rules concerning onsite wastewater management systems, commonly called septic systems. DEQ's onsite rules have become outdated over time. This rulemaking will bring standards and practices up to date and add new products and tools. The rulemaking will affect divisions -071 and -073 of DEQ's administrative rules.

DEQ:

- Held advisory committee meetings in spring 2019

Dissolved Oxygen

This rulemaking would: 1. Amend 340-041-0016, 340-041-8033 Table 21 and 340-041-0002 – Definitions, to clarify application of criteria for cold-water, cool-water and warm-water aquatic life; 2. Add an editorial note in Table 30 (340-041-8033) to note that the acute (total recoverable) criterion for cadmium is not effective and has been replaced by a federal criterion and add the citation to the federal criterion; 3. Add an editorial note to the stratified waters rule language in OAR 340-041-0061 to note that it was disapproved by EPA and is no longer effective, or delete the language from 340-041-0061.

DEQ committed to EPA that it would amend these rules before the next integrated report to clarify Oregon's interpretation of where cold-, cool- and warm-water species are located. Other changes are corrections and clarifications to reflect EPA decisions.

Subject Matter Expert: Aron Borok

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503-229-5050

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.

Heatsmart

Subject Matter Expert: D Wu

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503-229-5269

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. The federal government delegates authority to implement the Clean Air Act 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 federal rules prohibit.

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](#)