



Draft Fiscal Impact Statement

Water Quality Fee Correction 2020

Introduction

DEQ invites public input on proposed rule amendments to Chapter 340 of the Oregon Administrative Rules. The proposed rule amendments are to correct water quality fees in 2020 for fiscal year 2021.

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 to adjust the fees to align with the proper intent for currently adopted fees. The 2020 fee correction of 11 specific fee categories and one fee narrative that were adopted July, 2020 will align for the anticipated rise in administration costs associated with the permit program and to support policy option packages 122 and 127 of the 2019-21 Legislatively Adopted Budget. The specific fee errors were all typographical in nature, further, this correction will properly align the phase one fees with the phase two fees that will take effect Aug. 1, 2021. This correction will help DEQ advance its objective for a sustainable water quality program that issues timely, high quality permits. The fees also help ensure compliance with permit conditions by supporting inspections, enforcement, and reporting to the United States 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](#).

DEQ must apply the corrected fees to invoices as of February 2021 to cover costs associated with implementing the permitting program and delivering services to regulated entities. Without this rule language correction, DEQ will continue to assess the incorrect fees for 11 specific fee categories.

Fee Analysis

Proposed rule changes

Fee Correction

DEQ is proposing a fee correction to align with the adopted rules for (federal) National Pollutant Discharge Elimination System permits and (state) Water Pollution Control Facility permits. The fee correction consists of the following:

- a) An effective date error correction
- b) Fee corrections (Tables A, B, G, H, I)

Rule language change proposal

DEQ proposes to correct the following rule language to OAR 340-045-0075 to state as follows:

OAR 340-045-0075 (2) Two sets of fee tables are provided. The first identifies fees effective August 1, 2020, through July 31, 2021. The second establishes the fee amounts effective starting August 1, 2021.

2020 Adopted Fees Correction Table

Table	Section	Number of Permits (8/1/20-6/30/21)	Current Fee	Proposed Fee	Deviation	Total
70A Tier 1	Major Modification	<5	38,357	38,457	-100	500
70B	B8-Tier 1 Annual Fees	2	13,633	15,405	-1,772	3,544
70B	B10-Tier 1 Annual Fees	1	13,633	15,405	-1,772	1,772
70H	Counties, Phase I	1	10,069	10,690	-621	621
70G	1700A App Fee (NEW)	0	501	696	-195	0
70I	UIC 12U General App Fee	~8	616	696	-80	640
70I	UIC 12U General Annual Fee	20	633	714	-81	1,620
70I	UIC Geothermal App Fee	0	616	696	-80	0
70I	UIC Geothermal Annual Fee	1	633	714	-81	81
70B	B-20 Tier 1	8	77,989	7,989	70,000	(560,000)

Reasons

DEQ must establish the corrected fees to implement the current service level of the 2019-21 budget to cover costs associated with implementing the permitting program and delivering services to regulated entities, and to carry out implementation of hiring new positions authorized in the current Legislatively Adopted Budget. Further, the corrected fees will provide parity with how the fees were originally intended to be increased for phase one of the fee increase. Without this increase, the fees as enumerated on page 2 of this document, will be arbitrary and capricious with respect to the other phase one fee increases. Also, the phase one fees will revert back to the previous fee on June 1, 2021 and will remain that way until Aug. 1, 2021 when the phase two fees go into effect. This is likely to cause both a fiscal impact to DEQs operating budget and significant confusion to the permittees

Fee proposal alternatives considered

Not correcting fees

Without correcting the fee tables and effective date, DEQ will have significant accounting challenges for implementing effected invoices. Also, all fees would revert back to the 2019 fee tables for two months. This would cause an abundance of confusion for permittees and DEQ staff.

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 includes stakeholders representing domestic and industrial permit holders, state agencies, and environmental and citizen engagement organizations. The committee is scheduled for one meeting 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

The 11 categorical fee changes will align the fees with those that were intended to be approved in July 2020. Nine of the fees will have a small increase, one fee will have a significant decrease and one fee will remain the same but will correct a typographical error.

Documents relied on for fiscal and economic impact

Document title	Document location
Fee increase calculations	DEQ Headquarters
Recommendations and Implementation Plan	DEQ web page: https://www.oregon.gov/deq/FilterDocs/wqp-FinalReport.pdf
DEQ 2017-2019 Legislatively Approved Budget	DEQ Headquarters
DEQ 2019-2020 Legislatively Approved 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

Document title	Document location
	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 will ask 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 will review the draft fiscal and economic impact statement.

Statement of Fiscal and Economic Impact

Fiscal and economic impact

Correcting the permit fees would benefit DEQ and permittees by providing a level of parity with respect to the fee increase presented to the EQC in July 2020. The fee change will increase costs for some entities while decreasing them for one entity to align them with the fees that were proposed for the July 2020 fee increase. These changes will not increase fees beyond what was intended in the July 2020 fee rule.

State and federal agencies

State and federal agencies are not expected to be impacted by this fee change. If by chance they are, the amount will be by less than \$200. These changes will not increase fees beyond what was intended in the July 2020 fee rule.

Local governments and public

DEQ expects one County Municipal Separate Storm Sewer System permit to be effected by this fee change for an increase of \$100.

Large businesses - businesses with more than 50 employees

The proposed fee increase will have a minimal effect on permit holders as indicated in the table above. The fee increase, if left to stand would be significant at \$70,000 per facility for eight facilities.

Small businesses – businesses with 50 or fewer employees

The proposed fee increase will have a minimal effect on permit holders as indicated in the table above

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

- Please see the table above.

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 on Nov. 30, 2020. The committee was composed of a diverse group of stakeholders representing a wide cross section of DEQ's permit holders.

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 correction will affect building costs that could be passed on to the home buyer.

Alternative formats

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.