

DEQ Rulemaking Plan

February 2018



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 make alternative formats (Braille, large type) of this document available. Contact DEQ, Portland, at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696.

Table of Contents

Contents

Information and Contacts	1
Summary	2
EQC meeting schedule	3
Rules adopted since last report	3
EQC Action November 3, 2017	3
Clean Fuels Program 2017	3
Clean Water State Revolving Fund 2017	3
Pending rulemakings	4
Planned EQC March 2018	4
Underground Storage Tanks 2017	4
Planned EQC May 2018	5
Title V CPI 2018 Part 1	5
Electric Vehicle Rebates 2018	5
Air Toxics Benchmark Review 2016	5
Planned EQC July 2018	6
Cleaner Air Oregon 2017	6
Asbestos 2018	6
Planned EQC September 2018	6
Greenhouse Gas Update 2018	6
Water Quality Permit Fee 2018	7
Smoke Management 2018	7
Planned EQC November 2018	8
Clean Fuels 2018	8
Portland and Medford SIP-VIP Updates 2018	8
Planned EQC March 2019	8
Table Moving Project	8
Dissolved Oxygen 2019	9
Willamette Basin Multiple Discharger Variance for Mercury	9
Planned EQC March 2019	9
Hazardous Waste Fee 2019	9
No EQC date established	10
Heatsmart 2018	10
HazWaste Delisting 2018	10

Low Emission Vehicle/Zero Emission Vehicle Update 2017	10
Air Contaminant Discharge Permit Fee Increase.....	10
Federal Landfill Emission Guidelines 2017	11
Clean Power Plan.....	11
Links.....	11
Proposed and Filed rules.....	11
EQC Meetings	11

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 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.

The DEQ director reviews all proposed 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

2018

January 18-19

March 22-23

May 10-11

July 12-13

September 13-14

November 15-16

Rules adopted since last report

EQC Action November 3, 2017

Clean Fuels Program 2017

Subject Matter Expert: Cory-Ann Wind

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503-229-5388

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

Clean Water State Revolving Fund 2017

Subject Matter Expert: Lee Ann Lawrence

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503-229-5622

This rulemaking aligned 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.

Pending rulemakings

There are 15 pending rulemakings on the current DEQ Rulemaking Plan. The table below provides the current schedule for each.

Legislative Session EQC Meeting	2018												2019											
	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Current Rulemakings																								
1) Underground Storage Tanks 2017	H		E																					
2) Air Toxics Benchmark Review					E																			
3) Electric Vehicle Rebates		H			E																			
4) Title V CPI 2018 Part 1			H		E																			
5) Asbestos 2018			A	H			E																	
6) Cleaner Air Oregon						E																		
7) Greenhouse Gas Update		N	H					E																
8) Water Quality Permit Fee 2018			A			N	H		E															
9) Clean Fuels 2018								N	H	E														
10) Dissolved Oxygen (2019)							A		N	H					E									
11) Hazardous Waste Fee (2019)			A						N	H					E									
12) Smoke Management				A		N	H		E															
13) Table Moving Project 2018							N	H			E													
14) VIP Updates 2018				A		N	H			E														
15) Mercury MD Variance (2019)							A		N	H					E									
ON HOLD																								
Air Contaminant Discharge Permit Fee 2017 (E Board)	Waiting for action in 2019 Oregon legislature																							
Clean Power Plan	Awaiting federal action																							
Federal Landfill Emission Guidelines	Staffing change – likely to resume in 7.2018																							
LevZev 2017	DEQ staffing change																							
Public Records	Awaiting action by Oregon DAS																							
Hazardous Waste Delisting	Awaiting action from petitioners																							
Heatsmart	DEQ staffing change																							

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

Planned EQC March 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
- Provided public notice of the rulemaking in January 2018 and accepted public comment in February 2018
- Held a public hearing in February 2018

Planned EQC May 2018

Title V CPI 2018 Part 1

Subject Matter Expert: Don Hendrix
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503-229-5108

The proposed rule changes would increase Title V permit fees by the 2017 and 2018 Consumer Price Index increases. This is 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 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. Federal and state law authorize the proposed increase in Title V permitting program fees by the Bureau of Labor Statistics Consumer Price Index.

DEQ:

- Did not hold an advisory committee meeting
- Published notice of the rulemaking and begin accepting public comments in February or March 2018
- Held a public hearing in March 2018

Electric Vehicle Rebates 2018

Subject Matter Expert: Rachel Sakata
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503-229-5659

House Bill 2017 (2017) directed DEQ to implement a program to issue rebates for purchasing electric vehicles. Rebate funding will be available starting June 2018. DEQ must have rules in place by then to start issuing rebates.

DEQ:

- Held an advisory committee meeting in the fall of 2017
- Provided public notice of the rulemaking and begin accepting public comments in January 2018
- Held public hearings in February 2018

Air Toxics Benchmark Review 2016

Subject Matter Expert: Susan MacMillan
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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.

DEQ:

- Provided notice of the rulemaking and accepted public comments beginning in July 2017 and January 2018
- Held a public hearing in August 2017

Planned EQC July 2018

Cleaner Air Oregon 2017

Subject Matter Expert: Jill Inahara

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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 been conducting 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
- Published draft rules and opened the public comment period in October 2017
- Held public hearings in October and November 2018

Asbestos 2018

Subject Matter Expert: Michelle Martin

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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:

- Held an advisory committee meeting in October 2017
- Will publish notice of the rulemaking and hearing in March 2018
- Will hold a public hearing in April 2018

Planned EQC September 2018

Greenhouse Gas Update 2018

Subject Matter Expert: Elizabeth Elbel

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503-229-6476

Oregon's current greenhouse gas reporting rules require industrial sources with air quality permits to utilize EPA calculation methodology when reporting emissions resulting from industrial processes. Oregon's rule language requires EPA methodology by referencing the 2013 version of the federal reporting rule. Since the last update of Oregon's reporting rule EPA has modified some of the methodology. The proposed rule changes would update the reference date currently in Oregon's rule to the most recent version of the federal calculation methodology. Additionally, this rulemaking would clarify record keeping requirements for regulated parties and ask the EQC to clearly give investigatory authority in the GHG reporting rule. This would allow DEQ program staff to request all information necessary, including pertinent records needed to determine applicability and compliance with reporting, for all sectors subject to the rule.

This rulemaking will allow DEQ to require the use of current EPA methodologies for calculating GHG emissions for industrial sources and will improve the program's ability to audit data, identify regulated parties and implement the reporting requirement.

DEQ:

- Held an advisory committee meeting in November 2017
- Published notice of the rulemaking and hearing in February 2018
- Will hold a public hearing in March 2018

Water Quality Permit Fee 2018

Subject Matter Expert: Michele Martin

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503-229-5103

This rulemaking will update water quality permit fees. This fee update will provide necessary funding for DEQ resources under the authority of ORS 468B.051 and the Legislatively Adopted Budget for 2017-19.

DEQ:

- Held an advisory committee meeting in January 2018
- Will provide public notice of the rulemaking and open public comment in April 2018
- Will hold a public hearing in May 2018

Smoke Management 2018

Subject Matter Expert: David Collier

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503-229-5177

This is a joint rulemaking with DEQ and the Oregon Department of Forestry. This project will amend rules of both agencies to allow more opportunity to use prescribed forestry burning while preserving public health protections.

DEQ plans to:

- Hold an advisory committee meeting in April 2018
- Provide public notice of the rulemaking and open public comment in June 2018
- Hold a public hearing in August 2018

Planned EQC November 2018

Clean Fuels 2018

Subject Matter Expert: Cory Ann Wind

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503-229-5388

The rulemaking proposes adding new categories of credit-generating fuels and a verification system for the fuel reporting, credit and deficit generation, and fuel carbon-intensity applications. The rulemaking also proposes routine updates to the models used to calculate carbon intensities (OR-GREET & OPGEE) and indirect land use change (CCLUB & GTAP) and violations in Division 12.

This rulemaking will make the implementation of the Clean Fuels Program more robust. The new and updated provisions will provide additional assurance that the fuels the program regulates are properly quantified, documented and verified. Where that is not the case, the proposed changes will help ensure the agency has the ability to take enforcement action against the errors.

DEQ:

- Did not hold an advisory committee meeting
- Will provide public notice of the rulemaking and open public comment in August 2018
- Will hold a public hearing in September 2018

Portland and Medford SIP-VIP Updates 2018

Subject Matter Expert: David Collier

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503-229-5177

DEQ is updating the rules for the Vehicle Inspection Program. The updates may include Portland Stage II vapor recovery rules, indirect permit rules and ozone SIP rules. These updates are necessary to adjust to rules to changed environmental conditions that result in some rules no longer being necessary, or to remain as stringent. DEQ must also amend these rules to account for vehicle year exemptions and new types of vehicles.

DEQ plans to:

- Hold an advisory committee meeting in Spring 2018
- Provide public notice of the rulemaking and open public comment in July 2018
- Hold public hearings in August 2018

Planned EQC March 2019

Table Moving Project

Subject Matter Expert: Meyer Goldstein

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503-229-6708

This rulemaking is administrative and does not make any substantive changes to any DEQ rules. Many DEQ rules refer to external documents such as tables, maps, or manuals. Currently, many of these documents do not appear with the official rules on the Secretary of State's web site. This rulemaking will move as many of these external documents as possible to their related rules on the Secretary of State's web site.

DEQ plans to:

- Provide public notice of the rulemaking and open public comment in November 2018
- Hold public hearings in December 2018

Dissolved Oxygen 2019

Subject Matter Expert: Aron Borok

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503-229-5050

This rulemaking would amend dissolved oxygen rules and definitions to clarify the rules' application, add information about federal cadmium standards and note EPA disapproved stratified waters language.

DEQ plans to:

- Provide public notice of the rulemaking and open public comment in October 2018
- Hold public hearings in November 2019

Willamette Basin Multiple Discharger Variance for Mercury

Subject Matter Expert: Aron Borok

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503-229-5050

The rule will add procedures and specifications for qualifying point source dischargers in the Willamette Basin to use to apply for and obtain a variance from water-quality based effluent limits for mercury. The rules will also require the dischargers to continue to work to decrease mercury in effluent. In addition, DEQ will propose changes to the variance rule (OAR 340-041-0061) to be consistent with recent changes to parallel federal regulations.

DEQ plans to:

- Provide public notice of the rulemaking and open public comment in October 2018
- Hold public hearings in November 2018

Planned EQC March 2019

Hazardous Waste Fee 2019

Subject Matter Expert: Karen Terry

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503-229-5477

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:

- Hold advisory committee meetings in the spring of 2018
- Provide public notice of the rulemaking and open public comment in November 2019
- Hold public hearings in December 2019

No EQC date established

Heatsmart 2018

Subject Matter Expert: TBD

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.

HazWaste Delisting 2018

Subject Matter Expert: Dan Lobato

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503-229-7998

The proposed rule would exclude an F 006 Hazardous Waste from the hazardous waste lists in OAR 340, Division 101. DEQ is taking this action in response to a petition submitted by a generating facility. The generator contends that, while their process does fall within a hazardous waste definition under federal regulations, the actual material produced does not meet that definition.

Low Emission Vehicle/Zero Emission Vehicle Update 2017

Subject Matter Expert: TBD

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.

Air Contaminant Discharge Permit Fee Increase

Subject Matter Expert: TBD

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, DEQ raised ACDP fees 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.

Federal Landfill Emission Guidelines 2017

Subject Matter Expert: TBD

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.

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](#)