

# Water Quality Rulemaking Advisory Committee

## Meeting summary

### Water Quality 2020 Fee Increase Rulemaking, Meeting No. 1

Wednesday, August 7, 2019

9:00 AM to 11:00 AM

DEQ

700 NE Multnomah St., Room 601

Portland, OR 97232

#### Attending

Sharla Moffett, Oregon Business and Industry  
Karen Lewotsky, Oregon Environmental Council  
Brannon Lamp, Aqua Resource Design & Consulting  
Peggy Lynch, League of Women Voters  
Susan Smith, Oregon Association of Clean Water Agencies  
Michael Eliason, Association of Oregon Counties  
Mark Landauer, Special Districts Association of Oregon  
Ellen Miller, Oregon Homebuilders Association  
Rian Hooff, DEQ  
Adam Coutu, DEQ  
Justin Green, DEQ  
Geoff Rabinowitz, DEQ  
Michele Martin, DEQ

#### Agenda

Time	Topic
9:00 a.m.	Welcome, logistics, agenda review
9:05 a.m.	Introductions
9:15 a.m.	Rulemaking overview
9:30 a.m.	Review of Fee Increase Options 1 and 2, and Discussion
10:30 a.m.	Public comment opportunity
10:45 a.m.	Next steps
11:00 a.m.	Adjourn meeting

#### Meeting summary

Justin Green provided an overview of the 2020 fee increase rulemaking.

Clarification that Oct. 1, 2019 is the effective date for the 2019 fee increase to take effect. DEQ must apply the new fees to invoices as of Oct. 1, 2019, to cover costs associated with implementing the permitting program and delivering services to regulated entities. DEQ will present the 2019 fee increase rulemaking proposal to the EQC in September of this year. The 2019 fee increase of the proposed 3 percent overlaps with the 2020 fee increase rulemaking. The options presented today for implementing the 2020 fee increase assume that the proposed 2019 fee increase will be adopted by EQC as previously detailed. If the EQC takes a different course of action then the 2020 fee increase proposal may be adjusted accordingly. DEQ is preparing the 2020 fee increase for consideration and approval by the



State of Oregon  
Department of  
Environmental  
Quality

#### Water Quality

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EQC in May 2020; permittees will be invoiced for the new fees beginning June 2020 that correlate with their invoice date.

Michele Martin at DEQ, will email the committee with the DEQ webpages that are updated with current permit issuance status ([click here](#)), and Rian Hooff at DEQ, will send spreadsheet of new or restored positions included in 2019-2021 Legislatively Approved Budget, including which positions are supported by split funding (60/40) or by General Fund, or other sources.



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- The reported fee revenue need is the amount necessary to support these positions, based on 60/40 split. The 60 percent is representative of other funds (permit fees) and the 40 percent is representative of the General Fund, Lottery Fund and Federal Fund.

## Rulemaking overview

Information about this rulemaking can be found online, and anyone can sign up for email alerts there as well. <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rwqfees2020.aspx>.

*For the Draft Fiscal Impact Statement—Budget analysis:* the cost per FTE is an average (total cost divided by total FTE) for the biennium. The new values reflect salary and benefit cost adjustments prescribed by state budget instructions. The Legislatively Approved Budget includes Step increases for employees not currently topped out, but does not include cost of living adjustment increases currently in negotiation.

*Question regarding stability of Federal Funding (Draft Fiscal Impact Statement, Budget Comparison Table 1).* DEQ has no reason to doubt federal funding; funding has remained relatively flat, meaning that federal contributions are not keeping pace with increased costs over time.

## Review of fee increase alternative fee options 1 and 2, and discussion

Rationale for Option 1; the exclusion of MS4 annual fees from the 18 percent increase: MS4 permittees had a substantial fee increase in 2018.

Clarified that in both Options 1 and 2, the MS4 permit fees will include the 3 percent increase authorized by statute. Reminder that both options pay for the same package of new positions approved by the 2019 Legislature – just with slightly different fee options to generate that revenue.

*Request to see the different types of permits included in the fee increase, and if there is generally perceived equity across what they are paying. Concern that increases could hit some permittees disproportionately, small business, for example.* DEQ stated that the program has approached increases across the board rather than increasing individually. Splitting up fee increases adds complexity and could potentially lead to conflict among permit groups.

The DEQ 2019/21 Agency Request Budget originally proposed new positions that would require a 43 percent fee increase, and the Governor's Recommended Budget included a package of new positions that would require a 35 percent fee increase. Ultimately, the 2019 Legislature approved a policy option packages representing fewer split funded positions which require \$1,170,185 in new revenue during the 2019/21 biennium.

*Expressed concern over impact to communities, how was communication and representation afforded to these groups.* Representatives of a broad group of communities across the state worked on the proposed compromise packet to the Legislature. They worked to ensure a balance in positions needed across water quality programs, and for not every position to fall into permitting, but also supporting roles as well as

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including non-permitting programs such as water quality standards and assessments, and Total Maximum Daily Loads work that is foundational to issuing timely and protective permits. The Association of Clean Water Agencies worked closely with DEQ for a balanced proposal of 17 percent and 3 percent allowable by statute, the options we have now, with 21 percent, is very close to that.

*Question regarding status of permit backlog, are permit holders getting services, and are permits renewals on time? Are there estimates of work to be done with this fee increase?* DEQ is working on year two of the permit issuance work plan, and is working on the five year work plan. The litigation process is driving much of the work. Last year, DEQ issued 32 permits, and 20-25 permits are projected for this year. The schedule is uncertain, as DEQ gets deeper into the backlog the more difficult the permits will be. DEQ is focusing on integrating with the TMDL program and working with permittees within TMDL areas to learn where to get the most impact.

*Is DEQ seeing any permit challenges?* DEQ not aware of any objections or challenges for NPDES individual permits, though there may be some for MS4 permits.

*What are DEQ's priorities?* Willamette Basin TMDL is in public comment until early September. DEQ is in litigation for the temperature TMDL, and 14 temperature TMDLs need to be implemented in a very short period. Other priorities include permit development and rollout the integration of the environmental data management system (EDMS).

Discussion considering the two options presented by DEQ suggested a consensus preference for option 1 by most of the RAC members who voiced an opinion. DEQ will continue to welcome input from committee members as the agency prepares to select one of the options for developing the financial impact statement that will be presented at the second rulemaking advisory committee meeting.

## Next steps

DEQ will have the fiscal impact statement for review before next advisory committee meeting.

In preparation for this meeting, a spreadsheet was provided (posted online under meeting no.1) that showed the 2018 current fees, 2019 proposed fees, and the two fee options proposed for 2020. The spreadsheet also highlights the fees that will be excluded from this fee increase.

Closing notes: DEQ will only be providing a fiscal impact statement for one option. If anyone has any comments on either Option 1 or Option 2, or information or suggestions on alternative fee options, please provide that within the next week or week and a half. Alternative suggestions will be shared with entire group.

Contact DEQ staff members with any questions. Emails received will become public record and associated with this rulemaking. The second meeting is tentatively scheduled for the end of September to early October. It is not required to provide preference for one of the options provided.

## Public comment opportunity

No comments.

Meeting adjourned at 10:23.

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



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