

2022 Aquatic Life Use Updates Advisory Committee Charter

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State of Oregon
Department of
Environmental
Quality

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.oregon.gov.

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2. Objectives and Scope

2.1. Committee Purpose and Objectives

This Rulemaking Advisory Committee's purpose is to provide input to the Oregon Department of Environmental Quality on a proposed rulemaking to update the existing aquatic life use subcategory designations relating to Oregon's temperature standard, and to designate aquatic life use subcategories relating to Oregon's dissolved oxygen standards. The subcategories associated with the existing temperature standard will be updated based on newly available data. The subcategories associated with the dissolved oxygen standard will be designated in rule for the first time. DEQ has consulted with an expert technical workgroup to identify appropriate data sources and their utilization to meet the objectives of this rulemaking. This advisory committee will provide DEQ input on the fiscal and economic implications for stakeholders impacted by the proposed use subcategory updates.

The committee fulfills the requirement in Oregon Revised Statutes 183.333 to obtain input from an advisory committee on the fiscal and economic impact of the proposed rule, as described in Section 2.2 below. DEQ is not requesting the committee to make decisions or recommendations as a group. Neither does DEQ expect that the committee will reach consensus on their views or their input to DEQ.

2.2. Project Objectives and Scope

The objective of this rulemaking is to update and clarify Oregon's existing aquatic life use subcategories designated for temperature in OAR-340-041-101 to -340:

- Salmon and steelhead spawning use
- Core cold water habitat use
- Salmon and trout rearing and migration use
- Migration corridor use
- Lahontan cutthroat trout or Redband trout use
- Bull trout spawning and juvenile rearing use

The information used to determine subcategories associated with the existing temperature standard will be updated based on new and updated data.

The subcategories associated with the dissolved oxygen standard in OAR-340-041-0016 (1) to (6) will be designated in rule for the first time:

- Salmonid spawning
- Cold-water aquatic life
- Cool-water aquatic life
- Warm-water aquatic life
- Estuarine waters
- Ocean waters

Both sets of these use subcategories and designations reflect and protect the range and distribution of Oregon native species. They are based on authoritative data regarding distribution, timing, and life stage use of habitat statewide.

DEQ has not made substantial updates to the aquatic life use subcategory fish use maps and beneficial use tables since they were originally designated in the Oregon Administrative Rules in 2003. Since then, the Oregon Department of Fish and Wildlife and other agencies have continued to gather and refine fish and aquatic life distribution and timing information. Therefore, the most current information on fish habitat and distribution is not reflected in Oregon’s aquatic life use subcategory designations.

DEQ has determined that updated aquatic life use designations are needed to ensure that the use designations in Oregon’s water quality standards are accurate, up to date, based on the best available scientific information, and appropriate for the scale of GIS hydrography used by Oregon’s state agencies.

2.3. Fiscal and Economic Impact

ORS 183.333 requires that DEQ ask the advisory 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 DEQ can reduce the negative fiscal impact of the rules on small businesses.

The statement of fiscal and economic impact will be written by DEQ based on available information and the input of the advisory committee. It will be available to the public during the formal public comment period on the proposed rule amendments.

2.4. Rulemaking Timeline

The table below shows the major milestones and dates for this rulemaking process.

Milestone	Date
External Technical Workgroup	November 2020 – March 2022
Develop draft maps and support documents	July 2021 – March 2022
Advisory Committee	January – May 2022
Public Notice and Comment Period	June – July 2022
Public Hearings	July 2022
Presentation to EQC for Adoption	November 2022

3. Roles and Responsibilities

3.1. DEQ facilitator

The facilitator:

- Encourages open, candid and robust dialogue.
- Starts and ends the meetings and agenda items on time.
- Encourages innovation by listening to all ideas.
- Captures ideas.
- Recognizes when the discussion is outside the scope of the meeting and steers the discussion back to the focus of the meeting.

3.2. Committee members

Advisory committee members must attend each meeting to ensure continuity throughout the process. If a member's absence is unavoidable, please notify the DEQ project manager. In this case, an alternate may be assigned. 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.

The committee member:

- Replies promptly to scheduling emails or polls and sets aside time for the meetings.
- Prepares for the meetings by reviewing any materials provided.
- Provides DEQ staff with copies of relevant research and documentation cited or suggested by the member.
- Stays focused on the specific agenda topics for each meeting.
- Comments constructively and in good faith.
- Consults with constituencies in a timely manner to inform them about the process and gather their input.
- Treats everyone and their opinions with respect.
- Allows one person to speak at a time.
- Is courteous by not engaging in sidebar discussions or engaging in other distracting behaviors during the meeting.
- Avoids representing to any outside party, including the public and the media, the views of any other committee member or the committee as a whole.

3.3. Non-committee member attendees

DEQ has invited subject matter experts from each of the state and federal wildlife and fisheries agencies to observe the committee meetings and serve as a resource, if needed. They will be available to help DEQ answer questions of a technical nature regarding the scientific basis for the rulemaking.

Non-members from the public may attend the committee meetings to observe, but not to actively participate in committee discussions. If non-committee members are present at a meeting, DEQ will try to provide time during the meeting for their comments and questions. However, this will be discretionary and as time allows.

3.5. DEQ staff

DEQ is committed to making the most effective use of committee members' time by:

- Establishing clear committee goals, meeting objectives and agendas.
- Giving committee members reasonable access to staff.
- Encouraging all members to take part in discussions.
- Providing a clear description of member roles, the committee timeline, the level of support or agreement perceived on specific proposals, and feedback on how committee member input will be used.
- Prepare for meetings and document reviews as described further below.

3.6. DEQ support and website

DEQ will post agenda and meeting materials on the advisory committee website at least one week in advance of the meeting. DEQ staff will provide meeting summaries of committee discussions that highlight the different perspectives and input of individual committee members. DEQ will send draft meeting summaries to the advisory committee for review and input. Final meeting summaries will be posted to the advisory committee website and will be part of the public record. A summary of the advisory committee process and input will be included in the EQC staff report for the rulemaking.

The advisory committee charter, a roster of the committee, meeting agendas and minutes, and background materials will be located on the advisory committee webpage:

<https://www.oregon.gov/deq/rulemaking/Pages/aquaticlife2022.aspx>

4. Committee meetings

All committee meetings will be:

- Open to the public for observation. DEQ will try to include time on the agenda at each meeting for non-member comments and questions if time allows.
- Advertised on the DEQ webpage calendar two weeks before the meeting at <https://www.oregon.gov/deq/get-involved/pages/calendar.aspx>
- Noticed by email to the Water Quality Standards and Water Quality Rulemaking GovDelivery lists.

The committee is expected to meet 3 to 4 times between January 2022 and May or June 2022 by virtual meeting and webinar. The meeting durations may vary depending on topics and committee progress. The agenda and meeting materials will be posted to the advisory committee webpage. When DEQ shares information with the committee, DEQ will allow a reasonable timeframe for review and feedback.

4.1. Decision making

This advisory committee will not make policy decisions. Rather, DEQ will consider the committee’s discussions and input to inform its draft proposed rules for the Aquatic Life Use Updates. DEQ may ask individual committee members to state whether they agree with or support certain aspects of the rulemaking being considered or under discussion. DEQ retains the authority to decide the content of the final proposed rules and rulemaking documents. The proposed rules will be published for public review and public comment as part of DEQ’s rulemaking process.

5. Membership

In convening this committee, DEQ selected members that reflect the range of stakeholders the proposed rules may impact, both directly and indirectly. Representatives are able to consider and provide input to DEQ on the policy, fiscal and economic impacts and benefits of the proposed standards revisions for the stakeholders they represent.

Advisory Committee Membership	
Stakeholder Committee Members	
Name	Affiliation
Emily Bowes	Rogue Riverkeeper
Sarah Cloud	Deschutes River Alliance
Mary Anne Cooper	Oregon Farm Bureau
Mike Eliason	Oregon Forest & Industries Council
James Fraser	Trout Unlimited
Liz Hamilton	Northwest Sport Fishing Industry Association
Megan Hill	Portland General Electric
Steve Kucas	Portland Water Bureau
John Schaefer	Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI)
Invited, pending acceptance	Confederated Tribes of the Warm Springs
Michael Martin	League of Oregon Cities
Chris McCabe	Northwest Pulp & Paper Association
Sharla Moffett	Oregon Business & Industry
John Runyon	Cascade Environmental Group, LLC / River Restoration Northwest
Susan Smith	Oregon Association of Clean Water Agencies
Glen Spain	Pacific Coast Federation of Fishermen's Associations / Institute for Fisheries Resources

Government Advisors	
Greg Sieglitz	NOAA- National Marine Fisheries Service
Brian Bangs	U.S. Fish and Wildlife Service
Rebecca Anthony	Oregon Department of Fish and Wildlife
Michelle Maier	U.S. Environmental Protection Agency

6. Travel expenses

DEQ is able to reimburse any in state, out-of-town committee members for travel expenses to in-person meetings as required if DEQ approves the expense reimbursements in advance of travel.

7. Public records and confidentiality

Committee communications and records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records and are available for public inspection and copying. 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 outside of DEQ generally are not considered public records if DEQ does not possess a copy.

8. 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 believes the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it.

9. Public involvement

All meetings will be open to the public. DEQ will try to set aside time for public input during a committee meeting if time allows. However, this is at DEQ's discretion.

DEQ will develop draft rules concurrent with the advisory committee process. Once this process is complete, DEQ will conduct a public rulemaking process. That process will include a specified period of time during which the public can submit comments on the proposed rules. DEQ will also hold a public hearing(s) during which any member of the public can submit written or verbal comments. Individual committee members may provide additional input as written or verbal public comments to DEQ on the proposed rule at this time. DEQ may modify the proposed rules based on public comment. DEQ intends to provide a final proposed rule to the EQC for action at its meeting in November 2022.

10. DEQ Contacts

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