

Annual Legislative Rulemaking Report Rules Adopted in 2025 ORS 183.403; ORS 192.245

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Introduction

This report satisfies the requirements of ORS 183.403 and ORS 192.245 that require administrative agencies to annually submit a report to the legislature describing their rulemaking activities.

Permanent rules

The Department of Environmental Quality adopted, amended, repealed or suspended 142 rules during 2025.

Temporary rules

The Department of Environmental Quality adopted, amended or suspended 3 temporary rules during 2025.

List of temporary rules amended

340-273-0400, 340-216-8020, 340-220-0050

Justification for temporary rules

DEQ 8-2025 (Climate Protection Program)

Rule No. 340-273-0400

Statement of need for the rule

What need is DEQ trying to address?

Adoption of the proposed temporary rule is needed to ensure that DEQ does not generate and distribute excess compliance instruments, which would undermine the CPP's goal of reducing greenhouse gas emissions. In addition, it is imperative that liquid fuels and propane suppliers regulated by the program have a clear understanding of how DEQ calculates and distributes compliance instruments. Liquid fuels and propane suppliers use this information to plan their activities and take appropriate actions to comply with the CPP rules. DEQ staff believes that the current rule is potentially ambiguous and unclear in explaining how DEQ would calculate the number of additional 2025 compliance instruments to be generated and distributed to liquid fuels and propane suppliers.

How would the proposed rule address the need?

The proposed rule amendment would correct the incorrect language describing the calculation of 2022, 2023, and 2024 emissions to be considered against the numeric benchmark included in the rules, to ensure that DEQ does not generate and distribute more compliance instruments than intended under this provision.

Finding that a failure to act promptly would result in serious prejudice to the public interest or the interest of parties concerned

Finding of serious prejudice

Failing to act promptly will result in serious prejudice to the public interest in reducing greenhouse gas emissions. If the proposed temporary rule is not adopted, it will result in the erroneous generation and distribution of millions of excess compliance instruments to covered fuel suppliers. These excess compliance instruments would be beyond the amount of additional compliance instruments that DEQ intended to distribute under this provision, as consistently described by DEQ throughout the original rulemaking process for the CPP 2024. The distribution of those excess compliance instruments will mean that covered entities will not have to reduce their greenhouse gas emissions as much in order to comply with the program, significantly undermining the efficacy of the program in its initial years. In addition, if this temporary rule is not adopted immediately, covered entities may not begin to make the types of plans and adjustments necessary to ensure that they will be able to comply with the program in the first compliance period. DEQ will generate and distribute 2025 compliance instruments, including any additional 2025 compliance instruments, no later than June 30, 2025, so it is imperative that the clarifications are adopted as soon as possible, to avoid any such prejudice.

Consequences of not taking immediate action

These changes must be adopted prior to the date that DEQ generates and distributes compliance instruments this year, which will occur no later than June 30, 2025. In addition, as described above, adopting this temporary rule as soon as possible will ensure that liquid fuels and propane suppliers have clear and accurate information about whether and how many additional compliance instruments they may be issued in 2025, so that they may plan and execute their CPP compliance strategies accordingly. If the rule is not adopted immediately, some liquid fuels and propane suppliers may incorrectly believe that they will receive more compliance instruments than they will actually receive, and therefore not make sufficient plans to ensure their compliance in the first compliance period. Thus, taking immediate action on these temporary rules will ensure that those parties are not thereby prejudiced.

Affected parties

The members of the public or parties who would be harmed if EQC did not take this action are the general public and liquid fuels and propane suppliers that must comply with the program.

Why or how failing to act immediately would cause the harm described above

Liquid fuels and propane suppliers have begun to plan their future operations based on the Division 273 rules adopted by the EQC on November 21, 2024. If EQC does not act immediately, a liquid fuels and propane supplier might mistakenly misinterpret the number of additional 2025 compliance instruments they would receive from DEQ, which could lead them to not make appropriate decisions for compliance strategies, which could negatively impact their ability to demonstrate compliance.

Explanation of why ORS 183.335(5) was most appropriate

The temporary rule amendment mitigated the harm described above by ensuring that the program did not generate excess compliance instruments, which would undermine program efficacy, and clarified how DEQ calculated and distributed additional 2025 compliance instruments, allowing covered entities to appropriately plan for program compliance.

DEQ 16-2025 (Greenhouse Gas Reporting Fee Adjustment)

Rule No. 340-216-8020, 340-220-0050

Statement of need for the rule

What need is DEQ trying to address?

Program fees, established in 2010, have remained unchanged despite inflation, rising program costs and expanded program services. Program revenue cannot sustain the current reporting activities and level of services, particularly technical assistance for regulated entities and auditing of reported data. If fees are not adjusted, the program faces an immediate budget shortfall for 2025.

How would the proposed rule address the need?

The proposed fee adjustment will support current levels of program operations, including providing technical assistance to the regulated community, auditing and verification of data, and maintaining online reporting systems. It will also raise the revenue necessary to cover rising costs associated with the program, including staff benefits and cost-of-living adjustments. Additionally, it will ensure a sufficient ending balance to cover existing program costs.

Finding that a failure to act promptly would result in serious prejudice to the public interest or the interest of parties concerned

Finding of serious prejudice

Failing to act promptly would result in serious prejudice to both the public interest and the interests of the affected parties because existing revenue is insufficient to sustain current staffing and core activities of the GHG Reporting Program. Activities include providing technical assistance, verifying reported data, and supplying data essential to operate DEQ's greenhouse gas emissions mitigation programs. Curtailing program functions will prejudice affected parties that rely on GHG Reporting Program data and work which is critical in informing decision makers, implementing programs, and ensuring timely compliance with regulations.

Consequences of not taking immediate action

Failing to amend the fee structure immediately will harm both the public and regulated entities because the program will face a budget shortfall if it is unable to invoice adjusted fees during the upcoming annual invoicing cycle. Delaying action would postpone additional revenue until late 2026. That will cause the program to operate at a deficit, directly impacting staffing levels and essential program operations.

Affected parties

The members of the public or parties who would be harmed if EQC did not take this action include regulated companies subject to reporting, members of the public, other agencies that utilize the data and DEQ programs that rely on timely and accurate greenhouse gas emissions data.

Why or how failing to act immediately would cause the harm described above

The harm described above would occur if EQC does not act immediately, because inadequately funding the reporting program impacts the program's ability to maintain staffing levels, provide technical services, maintain crucial systems such as online reporting, support rulemaking activities, and provide timely data to programs and other agencies.

Explanation of why ORS 183.335(5) was most appropriate

The temporary amendments prevented the harm described above by allowing the agency to apply the fee adjustment for the 2025 invoice cycle. This adjustment was essential to ensure uninterrupted funding of the reporting program.

Obtaining copies of report

Any person can obtain a copy of the report by:

- Using the link to the report posted on [DEQ's rulemaking web page](#).
- Contacting the DEQ Agency Rules Coordinator at: 700 Multnomah St. NE, 6th Floor, Portland, OR 97232

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