



State of Oregon Department of Environmental Quality

Draft Fiscal Impact Statement

Aquatic Life Use Updates 2022 Rulemaking

July 2022

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Executive Summary

The proposed rules provide an update to the aquatic life use subcategories associated with Oregon's temperature standard and clarifies in rule where use subcategories associated with the dissolved oxygen standard are applied. Previously, the subcategories for the dissolved oxygen (DO) standard were not explicitly mapped as they were for temperature. This rulemaking will clarify where and when DO criteria apply. New data are being used to update the aquatic life use subcategories associated with the existing temperature standard, and the use subcategories associated with the dissolved oxygen standard will be designated in rule for the first time.

Updates to the aquatic life use subcategories associated with the temperature standard will result in more stringent criteria in some waters and less stringent criteria in others. Subcategories for most waters will not change. DEQ estimates that the proposed rules (for both temperature and DO) would directly affect up to 44 NPDES-permitted facilities throughout the state of Oregon.

Waters with more stringent criteria include those for which the state has improved information and data about uses. In addition, since 2003, when DEQ initially mapped aquatic life use subcategories, restoration projects and dam removals have opened certain previously blocked streams to fish passage. DEQ estimates that waters with more stringent criteria may have a positive economic impact in some regions. For example, more protective water quality standards resulting from the proposed rulemaking, are expected to have a positive ecological effect on Oregon's salmonid and resident trout populations. If fish populations increase, there may be positive fiscal impacts on commercial and recreational fishing, jobs, and incomes in small coastal fishing-dependent communities.

As part of this rulemaking, DEQ is proposing to revise the pH criteria for the Crooked River subbasin and the Trout Creek subbasin in the Deschutes basin. The revised criteria will be consistent with the pH criteria for neighboring basins and better reflect the natural conditions of these subbasins. DEQ does not expect these revisions to impact aquatic life, as the proposed criteria protect the species found in these subbasins. The revisions may reduce

the resources DEQ must spend if the revised criteria are met and DEQ will not need to develop total maximum daily loads for pH in these waters. The revision may also reduce expenditures that would otherwise be required of permitted dischargers to meet more stringent criteria.

As part of this rulemaking, DEQ is proposing to remove definitions in its definition's rules (OAR 340-041-0002) because they are inconsistent with the same terms as defined in the dissolved oxygen standard. DEQ does not expect the removal of these definitions to have any fiscal impacts, because it will not impact how DEQ applies the DO criteria.

Statement of Cost of Compliance

DEQ is unable to quantify the cost of compliance due to the lack of data. Where the designated use changes mean a less stringent temperature or DO criterion applies, the change could provide a fiscal benefit to regulated point sources. Where the use changes mean the applicable criteria are more stringent, the proposed rules could lead to a fiscal impact for permitted sources. The proposed use updates will include both scenarios.

State and Federal agencies

DEQ

Direct Impacts

The proposed rules will require that DEQ permitting staff update permits at their next renewal to ensure that permittees are meeting updated standards. DEQ assessment staff will need to evaluate waters based on the updated standards and determine whether more stringent standards would cause impairments to waterbodies not previously categorized as impaired.

DEQ permitting staff have identified 39 NPDES facilities that may be impacted by the proposed rules for temperature. Nine of the 39 facilities may be impacted by more stringent temperature criteria. The specific facilities and waterbodies can be seen in the document entitled "[Potential NPDES Impacts](#)".

Staff identified 5 NPDES facilities that may be impacted by the proposed use updates for DO. Preliminary analysis conducted by the DEQ assessment staff determined that none of the waterbodies associated with the 5 facilities will be impacted due to more stringent DO criteria. Therefore, there should be minimal to no cost attributed to staff time related to the proposed rules for DO.

If additional waters are listed as impaired, DEQ will need to develop TMDLs for these waterbodies, which will require added resource expenditures.

Indirect Impacts

DEQ does not expect indirect impacts from the proposed rules.

Local governments

Direct Impacts

The proposed rules may result in more or less stringent permit limits for temperature and biological oxygen demand for publicly owned treatment works (POTWs). To the extent that the proposed rules will result in more stringent permit limits, local governments that operated POTWs may have to expend money to improve treatment processes to meet these limits. In order to meet more stringent temperature limits, this could involve any of a number of treatment options including water quality trading, constructed wetlands, hyporehic zone injection, storage, cooling ponds, spray ponds, cooling towers, mechanical chillers and other technologies. More stringent limits associated with dissolved oxygen criteria might require adjustments in current practices for these facilities, such as increased need for flocculent or other chemicals needed to address biological oxygen demand. Because the need of each facility is unique, there is insufficient information to estimate how much it will cost to meet more stringent limits, or what cost savings might be for facilities for which the proposed changes will result in less stringent permit limits.

Indirect Impacts

DEQ expects either no indirect impacts or minimal positive indirect impacts to local governments as a result of the proposed rules. There may be a positive indirect fiscal impact on municipal and small town/regional water purveyors, who use Oregon's streams to provide drinking water to the public. If the proposed rules have a positive effect on the ecological health of waterbodies, then cleaner and cooler water may reduce water treatment costs to provide drinking water. Furthermore, the temperature and dissolved oxygen designations may (i) protect investments by non-profits, governmental entities, and other parties in improving water quality and protecting native fish across the state, and (ii) ensure continued productivity of recreational and commercial fisheries that depend on protective (and accurately mapped) water quality standards.

There are multiple Tribal Nations throughout Oregon. The value of the Tribal fisheries to their people and their Tribal economy, both subsistence fisheries and small commercial fisheries, cannot be easily quantified in financial terms. However, the value is unquantifiable in terms of support for Tribal cultures and providing a secure economic future for the Tribal Nations.

Public

Direct Impacts

DEQ expects an overall positive direct fiscal impact to the public as a result of the proposed rules.

Commercial and recreational fishing is a major economic driver in the Oregon economy, especially in smaller rural communities. Small Oregon coastal communities which heavily rely on commercial salmon fishing for their income, may experience a positive fiscal impact due to the proposed rules, if salmon populations increase.

The statewide economic contribution of recreational anglers to Oregon's economy as of 2018 was \$1.5 billion dollars, supporting 13,120 jobs. It was estimated that 569,600 Oregon recreational anglers spent \$871.8 million in 2018.¹ The proposed rules may have a positive fiscal impact on income from recreational anglers if salmon populations increase. Providing access to recreational salmon fishing may also have a positive fiscal impact on the public who can use the salmon as a food source.

In contrast, there may be slight negative fiscal impacts on the public as a result of the proposed rules if more stringent permit limits for POTWs cause increased sewage fees for the public. Data are not available to estimate what this cost may be, however. In addition, the Deschutes River Alliance suggests that in areas where DEQ is reducing criteria or protections, this may equate to reductions in salmonid populations. If the proposed rules have a negative effect on salmonid populations, which DEQ does not expect, then there may be an indirect impact on Oregonian communities that rely heavily on water-based tourism, recreation, and recreational fishing.

Indirect Impacts

DEQ expects there may be indirect positive fiscal impacts on the public if the proposed rules: 1) improve the ecological health of Oregon's watersheds resulting in lower cleanup costs for municipal water providers, 2) improve recreational opportunities resulting from cleaner and more productive watersheds, and 3) increase nutrients in the ecosystem from salmon migration resulting in healthier forests and freshwater communities.

Large businesses - businesses with more than 50 employees

Direct Impacts

It is difficult to state how much the proposed rules may affect large businesses because the changes proposed by this rule are relatively modest. The proposed rules at the very least should maintain and support the current economic benefits to the commercial, recreational, and Tribal subsistence fisheries that support many communities along the Oregon coast. However, there are no data to assist in quantifying exact fiscal impacts.

Commercial salmon fishing generates thousands of jobs in smaller coastal Pacific Northwest communities. The Oregon Department of Fish and Wildlife, estimates that Oregon's coastal commercial salmon fisheries generated an average of 396,728 landed pounds of salmon from 2010-2017 in its multiple coastal ports, an average of approximately \$2,073,481. This was estimated to have created more than \$5,000,000 in net economic impacts to Oregon's

¹ <https://www.psc.org/download/333/special-reports/9337/economic-impacts-of-pacific-salmon-fisheries.pdf>

coastal communities through commerce.² Based on available data, it is unknown at this time what the quantified fiscal effect to large businesses may be.

There will be minimal to no fiscal impact to PGE's hydroelectric facilities on the Deschutes, Clackamas and Willamette rivers.

Indirect Impacts

DEQ does not anticipate indirect impacts to any large businesses as a result of the proposed rules.

Small businesses – businesses with 50 or fewer employees

Direct Impacts

DEQ does not expect that the proposed rules would directly impact small businesses.

Indirect Impacts

DEQ does not expect the proposed rules will have an indirect impact on small businesses. According to The Deschutes River Alliance, if salmonid populations are negatively affected by the proposed rules, which DEQ does not expect, then the proposed rules may impact different entities that make up the outdoor and recreation-based economies in Oregon. These groups fall into two overarching categories – direct recreation businesses and recreation-supporting businesses. Direct recreation businesses include (1) recreation-focused businesses like guides and outfitters, (2) recreation-specific retail shops that sell or rent gear, accessories, and other apparel, and (3) gear manufacturers who supply the recreational equipment. Recreation-supporting businesses include (1) lodging like hotels and motels, (2) restaurants, brewpubs, cafes, and other food services, (3) non-recreation retail stores like grocery stores, arts galleries, and other local attractions, (4) gas and fuel stations, (5) the local and rural towns and counties themselves, and (6) even the state and federal government.

It is not possible to quantify indirect fiscal impacts, whether positive or negative, based on available information.

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

Unable to quantify.

² https://www.dfw.state.or.us/MRP/docs/Backgrounder_Comm_Fishing.pdf

2. 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.

3. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

No additional resources are required for compliance with the proposed rules.

4. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ solicited feedback and information from the Rulemaking Advisory Committee regarding potential fiscal impacts to small businesses. Information on effects to any specific small businesses was not provided by the committee.

Documents relied on for fiscal and economic impact

| Document title | Document location |
|---|---|
| Title | Link or office address |
| Potential NPDES Impacts.xlsx | DEQ Headquarters Office 700 NE Multnomah St. Suite 600 Portland, OR 97232 |
| Deschutes River Alliance.pdf | DEQ Headquarters Office 700 NE Multnomah St. Suite 600 Portland, OR 97232 |
| International Paper.pdf | DEQ Headquarters Office 700 NE Multnomah St. Suite 600 Portland, OR 97232 |
| PCFFA_Comments.pdf; PCFFA_Statement.pdf | DEQ Headquarters Office 700 NE Multnomah St. Suite 600 Portland, OR 97232 |

Housing cost

DEQ determined the proposed rules would have either no effect or a slight positive effect on development costs if the rules increase the quality of the water supply for current and future housing developments. Local, regional, and urban water purveyors’ operational costs may be considered part of housing costs. Therefore, the cleaner the original water supply, the lower the water purveyors’ costs should be for treating and filtering it for delivery into

networked water systems and subsequently the lower the potential sewage fees for customers.

What alternatives did DEQ consider if any?

DEQ did not consider alternatives for these proposed rule changes. Under the federal Clean Water Act, the state is required to identify beneficial uses and adopt criteria to protect those uses, including fish populations and water contact recreation.

Land use

Land-use considerations

The proposed rules will either have no effect or an indirect effect on land use if cleaner water and healthier watersheds supports land-use planning goals. Healthier and more productive watersheds may better support salmon and steelhead fisheries, recreational economies that attract tourism, and tourism-related jobs.

Racial Equity

Racial Equity considerations

The proposed rules are expected to have a positive impact on and help promote racial equity, particularly in benefitting Tribal interests. The true externalized costs of water pollution often negatively affect the poor, rural, and indigenous and/or minority communities in Oregon. The proposed rules will help maintain healthy and abundant fisheries (including subsistence salmonid fisheries common to poor, rural and/or indigenous or minority communities) and will also help minimize costs of providing fresh, clean, and healthy water supplies to impoverished communities.

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.