

State of Oregon  
Department of Environmental Quality

Memorandum

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**Date:** November 23, 2009  
**To:** Environmental Quality Commission  
**From:** Dick Pedersen, Director  
**Subject:** Agenda item G, rule adoption: Streamlining water quality general permit adoption December 10–11, 2009 EQC Meeting

**Why this is important** DEQ is proposing to revise a section of Oregon Administrative Rule 340-045-0033, which allows DEQ to issue general permits by department order to reduce permitting timeframes and costs. The revision provides for the transition of EQC-adopted permits as they are replaced by permits issued by department order. This rulemaking also includes several revisions to the text as matters of housekeeping.

**DEQ recommendation and EQC motion** DEQ recommends that the Environmental Quality Commission adopt the proposed revisions to OAR 349-045-0033(1), (5), (6) and (11), as presented here in attachment A, to clarify the process of replacing a permit adopted by rule with a general permit adopted by a department order.

**Background and need for rulemaking** The rule change will continue to implement the Blue Ribbon Committee's recommendation in Senate Bill 45 (ORS 468B.050(2)) to adopt general permits by department order rather than by rule. This proposed revision will streamline the permitting process. It is necessary to include the provision in OAR 340-045 to clarify that DEQ has the authority to supersede rule authorized general permits with a subsequent permit adopted by department order.

**Effects of rule** The revision to OAR 340-045-0033(1) clarifies that DEQ has the authority to terminate a general permit adopted by EQC rule when a general permit covering the same activity has been adopted by department order.

The revision to OAR 340-045-0033(5) is a housekeeping revision that updates the current notification practices.

The revision to OAR 340-045-0033(6) is a housekeeping revision that consolidates a list of permit coverage options under one paragraph.

The revision to OAR 340-045-0033(11) removes eight of the listed permits because they have expired and were replaced by a permit issued by department order.

**Commission authority** The commission has authority to take this action under ORS 468.020, 468B.020 and 468B.035.

- Stakeholder involvement** The Blue Ribbon Committee is a group whose members represent industrial and municipal wastewater dischargers, technical and engineering consultants and environmental and community interests from across the state. The Blue Ribbon Committee reviewed the fiscal impact statement prior to public notice of the proposed rule revision.
- Public comment** DEQ held a public comment period Aug. 11, 2009 to Sept. 18, 2009, which included a public hearing in Portland. A summary of public comments and agency responses is included as attachment B
- Key issues** One public comment suggested that the proposed language for OAR 340-045-0033(1) would create a burden on DEQ to anticipate and avoid all ambiguities and that a general permit may unintentionally be terminated. DEQ changed the final proposed rule to address this comment, and the full response is provided in attachment B.
- Next steps** The proposed rule revisions would become effective upon filing with the Secretary of State. DEQ would implement this rule through the general permitting process, and no additional training or resources are required to implement the proposed revisions.
- Attachments**
- A. Proposed Rule Revisions
  - B. Summary of Public Comments and Agency Responses
  - C. Presiding Officer's Report on Public Hearings
  - D. Relationship to Federal Requirements Questions
  - E. Statement of Need and Fiscal and Economic Impact
  - F. Land Use Evaluation Statement
- Available upon request**
1. Written comments received during the public comment period.

Approved:

Section: \_\_\_\_\_

Division: \_\_\_\_\_

Report Prepared By: Beth Moore  
Phone: (503) 229-6402

**340-045-0033**

**General Permits**

(1) General permits may be adopted by a rule of the Environmental Quality Commission or by order issued by the Director. A permit adopted by rule may be terminated by a later permit issued by order if the later permit covers the same activity and specifically provides for termination of the earlier permit.

(2) General permits may be developed for certain categories of minor discharge sources or minor activities where individual NPDES or WPCF permits are not necessary to adequately protect the environment. Before the Director can issue a general permit, the following conditions must be met:

(a) There must be several minor sources or activities that involve the same or substantially similar types of operations.

(b) The sources or activities must have the potential to discharge or dispose of the same or similar types of wastes.

(c) The general permit must require the same or similar monitoring requirements, effluent limitations and operating conditions for the categories.

(d) The category of sources or activities would be more appropriately controlled under a general permit than an individual permit.

(3) General permits issued after the effective date of this rule will specify the following:

(a) The requirements to obtain coverage under a general permit, including application requirements and application submittal deadlines. The Department may determine that submittal of an application is not necessary after evaluating the type of discharge, potential for toxic and conventional pollutants in the discharge, expected discharge volume, availability of other means to identify dischargers, and estimated number of dischargers to be covered by the permit. The Department's evaluation must be provided in the public notice for the general permit.

(b) The process used by the Department to notify a person that coverage under a general permit has been obtained and the discharge or activity is authorized.

(4) Although general permits may include activities throughout the state, they may also be restricted to more limited geographical areas.

(5) Prior to issuing a general permit, the Department will follow the public notice and participation procedures outlined in OAR 340-045-0027 and 340-045-0035(3). If the general permit is to be adopted into rule, the Department will also follow ORS 183.325 to 183.410. In addition the Department will make a reasonable efforts to ~~mail notices of pending actions to~~

~~those persons known by the Department who are likely to be covered by the general permit~~notify potentially interested persons.

(6) Any person operating a discharge source or conducting an activity described in a general permit must apply for coverage under the general permit, unless the general permit does not require submission of an application pursuant to subsection (3)(a) of this rule or the source or activity is specifically covered by an individual NPDES or WPCF permit, or a person makes an application for an individual permit pursuant to subsection (9) of this rule. Any person seeking coverage under a general permit must submit an application as required under the terms of the applicable NPDES or WPCF general permit. If application requirements are not specified in the general permit, procedures in OAR 340-045-0030 or 340-071-0162, whichever is applicable, must be followed. A person who fails to submit an application in accordance with the terms of the general permit, OAR 340-045-0030 or 340-071-0162, whichever is applicable, is not authorized to conduct the activity described in the permit.

(7) Any person required to have coverage under a general permit must pay permit fees as required in OAR 340-045-0070 to 340-045-0075 or 340-071-0140 to obtain and maintain coverage under that permit.

(8) Any permittee covered by an individual NPDES or WPCF permit may request that the individual permit be canceled or allowed to expire, and that it be covered by a general permit if its discharge or activity may be covered by an existing general permit. As long as the permittee is covered by an individual NPDES or WPCF permit, the conditions and limitations of the individual permit govern until such time as it is canceled or expires.

(9) Any person not wishing to be covered by a general permit may make application for an individual permit in accordance with OAR 340-045-0030 or 340-071-0162, whichever is applicable.

(10) The Director may refuse to authorize or renew coverage or may revoke existing coverage under a general permit as it applies to any person and require such person to apply for and obtain an individual NPDES or WPCF permit.

(a) The procedures for denial of a permit in OAR 340-045-0050 and for permit revocation in OAR 340-045-0060 apply.

(b) Any interested person may petition the Director to take action under this section.

(c) The grounds for requiring an individual permit include the following:

(A) The discharge or activity is a significant contributor of pollution or creates other environmental problems;

(B) The permittee failed to comply or is not currently in compliance with the terms and conditions of the general permit, submitted false information, or the permittee is in violation of any applicable law;

(C) A change occurs in the availability of demonstrated technology or practices for the control or abatement of pollutants being discharged;

(D) For NPDES general permits, effluent limitation guidelines are promulgated for point sources covered by a general permit and the guidelines are not already in the general permit;

(E) Circumstances have changed so that the discharge or activity is no longer appropriately controlled under a general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary; or

(F) Any other relevant factors.

(11) The following general permits are adopted by reference in this rule and available for review at the Department:

(a) NPDES 200-J, Filter backwash (issued August 29, 1997);

(b) NPDES 500-J, Boiler blowdown (issued August 29, 1997);

~~(c) WPCF 600, Offstream placer mining (issued April 9, 1997);~~

~~(d)~~ NPDES 700-PM, Suction dredges (issued July 5, 2005);

~~(e) WPCF 800, Confined animal feeding operations (issued August 8, 1990);~~

~~(f) NPDES 900-J, Seafood processing (issued June 7, 1999);~~

~~(g) WPCF 1000, Gravel mining (issued July 26, 2002);~~

~~(h)~~ NPDES 1200-A, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from sand, gravel & non-metallic quarrying and mining in Standard Industrial Classification (SIC) 14, asphalt mix batch plants and concrete batch plants. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR 122.26(g); see permit for details. (issued July 26, 2002);

~~(i)~~ NPDES 1200-A, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from sand, gravel & non-metallic quarrying and mining in SIC 14, asphalt mix batch plants and concrete batch plants. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities

and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 1, 2007);

(~~h~~f) NPDES 1200-C, Storm water runoff from construction activities, including clearing, grading, and excavation, and stockpiling that disturbs one or more acres, and may discharge to surface waters or conveyance systems leading to surface waters. Also included are activities that will disturb less than one acre if such activities are part of a larger common plan of development that will disturb one or more acres over time (issued December 28, 2005)

(~~g~~) NPDES 1200-CA, Government agencies responsible for storm water runoff from construction activities that disturbs five or more acres; effective December 1, 2002, construction activities that disturb one or more acres are covered (issued February 20, 2001);

(~~h~~) NPDES 1200-COLS, Storm water runoff that may discharge to surface waters in the Columbia Slough watershed or conveyance systems leading to surface waters in the Columbia Slough watershed from industrial activities; see Sources Covered section of the permit for list of specific activities. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued September, 1, 2006);

(~~mi~~) NPDES 1200-Z, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from industrial activities; see Sources Covered section of permit for a specific list of activities. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 26, 2002);

(~~nj~~) NPDES 1200-Z, Storm water runoff that may discharge to surface waters or conveyance systems leading to surface waters from industrial activities; see Sources Covered section of permit for a specific list of activities covered. Facilities may qualify for a conditional exclusion from the requirement to obtain a permit if there is no exposure of industrial activities and materials to storm water pursuant to 40 CFR §122.26(g); see permit for details. (issued July 1, 2007);

~~(o) WPCF 1400-A, Seasonal food processing & wineries, less than 25,000 gallons/day (issued August 22, 2000);~~

~~(p) WPCF 1400-B, Other food processing, less than 25,000 gallons/day (issued August 22, 2000);~~

(~~qk~~) NPDES 1500-A, Petroleum hydrocarbon cleanups discharged to surface waters (issued August 22, 2000);

~~(r) WPCF 1500-B, Petroleum hydrocarbon cleanups (issued August 22, 2000);~~

| ~~(s)~~ NPDES 1700-A, Vehicle and equipment wash water discharged to surface waters (issued March 5, 1998);

| ~~(t) WPCF 1700-B, Vehicle and equipment wash water (issued March 5, 1998);~~

| ~~(m)~~ NPDES 1900-J, Non-contact geothermal heat exchange (issued September 11, 1997).;

| ~~(v)~~ NPDES 01, Confined animal feeding operations (issued October 1, 2003).

Stat. Auth.: ORS 468.020, 468B.020 & 468B.035

Stats. Implemented: ORS 468.065, 468B.015, 468B.035 & 468B.050

Hist.: DEQ 28-1980, f. & ef. 10-27-80; DEQ 15-2000, f. & cert. ef. 10-11-00; DEQ 13-2001, f. & cert. ef. 10-16-01; DEQ 8-2002, f. & cert. ef. 8-9-02; DEQ 14-2002, f. & cert. ef. 10-16-02; DEQ 12-2003, f. & cert. ef. 9-2-03; DEQ 5-2005, f. & cert. ef. 7-1-05; DEQ 11-2005, f. & cert. ef. 12-28-05; DEQ 10-2006, f. 8-15-06, cert. ef. 9-1-06

## Summary of Public Comment and Agency Response

**Title of Rulemaking: Streamlining Water Quality General Permit Adoption**

**Prepared by: Beth Moore**

**Date: September 21, 2009**

**Comment period** The public comment period opened Aug. 11, 2009 and closed at 5 p.m. Sept. 18, 2009. DEQ held a public hearing on Sept. 15, 2009 at 6 p.m. at the DEQ Portland Office 811 SW 6<sup>th</sup> Ave., in room EQC-A. One person attended the informational part of the hearing; no one provided comments at the hearing. DEQ received three written comments during the public comment period.

**Organization of comments and responses** Summaries of individual comments and DEQ's responses are provided below. Those who provided each comment are referenced by number. A list of commenters and their reference numbers follows the summary of comments and responses.

<b>Summary of Comments and Agency Responses</b>	
<b>Comment 1</b>	Keep the Confined Animal Feeding Operations (CAFO) general permit listed in the rule until all active permittees are transitioned to the CAFO general permit that was recently renewed and issued by department order on June 29, 2009. The Oregon Department of Agriculture (ODA) has renewed coverage for a majority of the permittees; however at this time it is anticipated that in December when this rulemaking goes before the EQC, there will still be active permittees assigned under the CAFO general permit that was issued by rule. Another option is to wait on the rule adoption.
<b>Response</b>	The CAFO general permit issued Oct. 1, 2003 will be retained in the rule under OAR 340-045-0033(11)(n) until the permittees are assigned to the new permit. ODA will continue to administer this process until all permittees are assigned to the DEQ/ODA department ordered permit.

<b>Comment 2</b>	The proposed change would allow DEQ to adopt a new permit without allowing the regulated community an opportunity to comment.
<b>Response</b>	OAR 340-045-0027 addresses the public notice and participation requirements for permitting actions. Specifically 340-045-0027(1)(c) and (2)(c)(C) provide for the public notice of a general permit. Under this part of the regulation, when a new or renewed general permit is proposed there is a minimum of 35 days for the public to provide written comment. If there is a public hearing scheduled, then this rule provides a minimum of 30 days notice of the date, time and location for the opportunity to provide oral comments. The public notice requirements in OAR 340-045-0027 are not changed by this rulemaking.

<b>Comment 3</b>	The proposed language in OAR 340-045-0033(1) places a burden on DEQ to
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	<p>anticipate and avoid ambiguities that might cause unintended terminations of existing general permits. It would be better and simpler for the rule to provide that an order adopting a general permit may terminate a general permit adopted by rule that covers the same activity. The following language was suggested: an order that adopts a general permit may terminate, under conditions specified in the order, a general permit adopted by rule that covers the same activities.</p>
<p><b>Response</b></p>	<p>In the proposed rulemaking, DEQ's suggested language for 340-045-0033(1) is as follows: General permits may be adopted by a rule of the Environmental Quality Commission or by order issued by the director. A permit adopted by rule will terminate when a permit covering the same activity is adopted by a subsequent order, unless the order expressly provides that the earlier permit remains effective.</p> <p>DEQ has the discretion to terminate, reassign or assign permittees to a particular group. DEQ needs to anticipate and address what existing permits might be affected when preparing to issue a permit by department order. The revised proposed language will incorporate the suggested change in 340-045-0033(1) as follows: General permits may be adopted by a rule of the Environmental Quality Commission or by order issued by the director. A permit adopted by rule may be terminated by a later permit issued by order if the later permit covers the same activity and specifically provides for termination of the earlier permit.</p>

<b>List of those who commented and reference numbers</b>				
<b>Reference number</b>	<b>Name</b>	<b>Organization</b>	<b>Address</b>	<b>Date on comments</b>
1	William Matthews	Oregon Department of Agriculture	635 Capitol Street NE Salem OR 97301	9/1/2009
2	John Ledger	Association of Oregon Industries	1149 Court Street NE Salem, OR 97301-4030	9/18/2009
3	Michael R. Campbell	Stoel Rives LLP	900 S.W. Fifth Avenue, Suite 2600 Portland, OR 97204	9/18/2009

Attachment C  
December 10-11, 2009 EQC meeting

**State of Oregon**  
**Department of Environmental Quality**

**Memorandum**

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**Presiding Officer's Report**

Date: Sept. 18, 2009

To: Environmental Quality Commission

From: Beth Moore, General Permit Coordinator, Surface Water Management

Subject: Presiding Officer's Report for Rulemaking Hearing  
Title of Proposal: Streamlining water quality general permit adoption  
Hearing Date and Time: Sept. 15, 2009 at 6 p.m.  
Hearing Location: DEQ Office, 811 SW 6<sup>th</sup> Ave., Portland in room EQC-A

DEQ convened the information session for the rulemaking hearing on the proposal referenced above followed by the public hearing at 6 p.m. Before taking comments, the rulemaking proposal and procedures for the hearing were explained. People were asked to sign registration forms if they wished to present comments. People were also advised that the comment portion of the hearing would be recorded.

One person attended the information session; there was no oral comment provided. There were no written or oral comments received at the hearing. DEQ closed the public hearing at 6:30 p.m.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**Relationship to Federal Requirements**

**Streamlining Water Quality General Permit Adoption**

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*Answers to the following questions identify how the proposed rulemaking relates to federal requirements and potential justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).*

**1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?**

This rulemaking is in addition to the federal requirements because it clarifies the administrative process for adopting general permits by department order under Oregon's general permit program. The federal rule 40 CFR §123.25 *Requirements for permitting* requires that states have the legal authority to implement program provisions which includes a general permits program under 40 CFR §122.28 *General permits*.

The amendment to OAR 340-045-0033 will clarify the department has the authority to supersede general permits adopted by rule with permits subsequently adopted by department order. As a result, a general permit that was adopted by rule will no longer be in effect because it will be replaced by the general permit that was adopted by department order.

**2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).**

The amendment is in addition to the applicable federal requirements because the federal requirements do not specifically address the administrative processes that are of concern in Oregon. The proposed amendments to OAR 340-045-0033 are the result of recommendations made in 2004 by the Blue Ribbon Committee convened by the department to work on permit program issues. The 2005 Oregon Legislature explicitly granted the authority to issue general permits by department order in Senate Bill 45 (Oregon Revised Statute 468B.050 (2)).

**3. If the proposal differs from, or is in addition to, applicable federal requirements, did the Department consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.**

DEQ has two alternatives in place for adopting general permits: general permits can either be adopted by rule by the Environmental Quality Commission or by an order issued by the director. This rulemaking provides further clarifications on the administrative process for adopting general permits by department order. A general permit adopted by rule will be superseded when it is subsequently adopted by a department order.

**DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**Chapter 340**  
**Proposed Rulemaking**  
**STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT**  
 This form accompanies a Notice of Proposed Rulemaking

The amendment to Oregon Administrative Rule 340-045-0033 as proposed, allows NPDES and WPCF General Permits that were adopted by rule to be superseded by general permits adopted by department order.

<b>Title of Proposed Rulemaking</b>	Streamlining Water Quality General Permit Adoption
<b>Statutory Authority or other Legal Authority</b>	Oregon Revised Statutes 468.020, 468B.020 & 468B.035
<b>Statutes Implemented</b>	Oregon Revised Statutes 468.065, 468B.015, 468B.035 & 468B.050
<b>Need for the Rule(s)</b>	<p>This rulemaking will amend Oregon Administrative Rule (OAR 340-045-0033) to implement that portion of Senate Bill 45 which includes the Blue Ribbon Committee recommendation to adopt general permits by department order rather than the more resource-intensive Environmental Quality Commission (EQC) rulemaking process.</p> <p>Under State Law (ORS 468B.050(2)) a general permit may be issued by department order or by the EQC adoption of a rule. It is necessary to adopt this provision in Oregon Administrative Rule 340-045-0033 to clarify that general permits that have been adopted by rule will be superseded when they are subsequently re-issued by department order.</p> <p>The department will provide better service to the regulated community and affected stakeholders by reducing the time associated with developing new and renewed general permits.</p>
<b>Documents Relied Upon for Rulemaking</b>	<p>Blue Ribbon Committee Report on Key Enhancements to the Oregon Wastewater Permitting Program. ( August 10, 2004)</p> <p>Water Quality General Permit Program Rule Amendments (August 31, 2001)</p> <p>DEQ's water quality permit database</p> <p>US Census Bureau Economic Census Oregon: 2002 Manufacturing (Issued September 2005)</p> <p>Oregon Revised Statutes 468B.050(2).</p>
<b>Requests for Other Options</b>	<b>Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.</b>
<b>Fiscal and Economic Impact, Statement of Cost Compliance</b>	
<b>Overview</b>	<p>The proposed amendment to Oregon Administrative Rule OAR 340-045-0033 establishes that general permits adopted by the EQC by rule will be superseded with the general permits subsequently adopted by department order. The department will provide better service to the regulated community and stakeholders because the time associated with issuing general permits will be reduced. The savings will contribute to reducing the backlog of the nine expired general permits. The administrative time it takes to process a typical general permit will be shortened by about 3 months with an associated savings of approximately \$30,000 per permit.</p> <p>The general permit rules apply to individuals, small businesses or communities who are</p>

	required to obtain general permits; however, the department is proposing to clarify the administrative process for issuing permits and not the specific permit or permit requirements themselves. There will not be any changes in costs, additional fees, or additional costs associated with this rulemaking.	
<b>Impacts on the General Public</b>	There will be no changes in cost or additional fees associated with proposed rulemaking that will be passed on to the general public.	
<b>Impacts to Small Business</b> (50 or fewer employees – ORS183.310(10))	There is no change in fees or additional fees or costs for a general permit. There is no change in the cost of compliance with a general permit or obligation associated with the proposed rulemaking.	
<b>Cost of Compliance on Small Business</b> (50 or fewer employees – ORS183.310(10))	a) Estimated <u>number</u> of small businesses subject to the proposed rule	There are roughly 3600 general permits assigned to businesses and approximately 75% of these general permits are assigned to small businesses.
	b) Types of businesses and industries with small businesses subject to the proposed rule	These are small businesses such as, seafood processors, food processors, wineries, fish hatcheries, dairies, manufacturers that have some form of cooling water or boiler blowdown, wood product manufacturers with log ponds, businesses that wash vehicles, pressure washing operations, recreational facilities with pools or suppliers of drinking water that have filter backwash, storm water runoff from construction or industrial sites, and small petroleum hydrocarbon clean up operations.
	c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services	The proposed rule amendment does not require additional reporting, recordkeeping or administrative requirements.
	d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule	The proposed rule amendment does not require additional equipment, supplies, labor or additional administrative requirements.
	e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	The proposal to adopt general permits by department order rather than through the rulemaking process was recommended by the Blue Ribbon Committee. Members of the committee include representatives of small businesses, such as, Oregon Associated Industries, Northwest Food Processors Association, and Oregon Building Industry Association.
<b>Impacts on Large Business</b> (all businesses that are not "small businesses" under ORS183.310(10))	There are roughly 3600 general permits assigned to businesses. There are approximately 25% of these general permits assigned to large businesses. There will be no change in cost or additional fees associated with the proposed rulemaking for general permits.	
<b>Impacts on Local Government</b>	There are roughly 350 general permits assigned to local governments. There are agreements with local governments who act as agents for the department in administering the stormwater general permits. There will be no changes in cost or additional fees associated with the proposed rulemaking for general permits.	
<b>Impacts on State Agencies other than DEQ</b>	There are roughly 74 general permits assigned to state agencies approximately 36% of these general permits are assigned to state agencies other than the department. The department has an agreement with the Department of Agriculture to administer the Confined Animal Feeding Operation general permit #01. The department has an agreement with the Department of Geology and Mineral Industries to administer the stormwater general permit and	

	water pollution control permit general permit for gravel mining. There will be no changes in cost or additional fees associated with the proposed rulemaking for other agencies.												
<b>Impacts on DEQ</b>	The proposed rule making does not require additional actions on the part of DEQ. The time associated with issuing general permits will be reduced. The estimated time savings for a typical general permit is 3 months and the savings associated with that is about \$30,000.  <table border="1" data-bbox="418 268 1206 499"> <thead> <tr> <th colspan="2">Breakdown of estimated savings for 3 months</th> </tr> <tr> <th>Fund Type</th> <th>Dollars</th> </tr> </thead> <tbody> <tr> <td>Personal Service</td> <td>20,522</td> </tr> <tr> <td>Other Supplies &amp; Service</td> <td>3,250</td> </tr> <tr> <td>General Fund and Government Transfer</td> <td>4,105</td> </tr> <tr> <td>Grand Total</td> <td>27,877</td> </tr> </tbody> </table> <p>General permits that were adopted by rulemaking required an additional workload which was met through reallocation and reprioritization of existing staff time. The adoption of general permits through a department order is less resource intensive. The DEQ will not be adding additional personnel, receiving additional revenue or increasing expenditures or raising fees to implement the proposed rule making for general permits. The time savings will be used to reduce the backlog in the expired general permits.</p>	Breakdown of estimated savings for 3 months		Fund Type	Dollars	Personal Service	20,522	Other Supplies & Service	3,250	General Fund and Government Transfer	4,105	Grand Total	27,877
Breakdown of estimated savings for 3 months													
Fund Type	Dollars												
Personal Service	20,522												
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Grand Total	27,877												
<b>Assumptions</b>	The amendment establishes the administrative process for the adoption of general permits and contains a couple of general housekeeping corrections. The proposed rule revision is not affecting a specific permit or permit requirements themselves. There will not be any changes or additional fees, costs or requirements associated with this proposed rulemaking. What is in place now will not be changed by the proposed rulemaking.												
<b>Housing Costs</b>	The department has determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.												
<b>Administrative Rule Advisory Committee</b>	In 2002 the department convened a Blue Ribbon Committee to recommend improvements to the state's wastewater permitting program. The Blue Ribbon Committee members represent industrial and municipal wastewater dischargers, technical/engineering consultants, and environmental and community interests from across the state. The Blue Ribbon Committee recommended that the department adopt general permits by department order rather than the more resource-intensive rulemaking process (Report on Key Enhancements to the Oregon Wastewater Permitting Program, August 10, 2004). The Blue Ribbon Committee has reviewed this fiscal impact statement.												

Beth Moore  
 Prepared by

Beth Moore  
 Printed name

6 Aug 2009  
 Date

J. Roys  
 Approved by DEQ Budget Office

Jim Roys  
 Printed name

8/6/09  
 Date

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**Land Use Evaluation Statement**

**Rulemaking Proposal**

for  
OAR 340-045-0033

**Streamlining Water Quality General Permit Adoption**

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**1. Explain the purpose of the proposed rules.**

The proposed rule amendment explains that general permits adopted by rule in OAR 340-045-0033 may be superseded by the general permits adopted by department order. Adopting permits by department order is a process improvement that was recommended in 2004 by the Blue Ribbon Committee, which is a group that was convened to assist in recommending improvements to permit processes. In the 2005 legislative session Senate Bill 45 (ORS 468B.050(2)) gave the department the authority to adopt permits by department order.

There are 22 NPDES and WPCF general permits that were adopted by rule in OAR 340-045 that cover discharges such as stormwater, washwater, suction dredges and seafood processing. Nine of the permits that are listed there will be removed from OAR 340-045 because they expired and have been superseded by a new permit. The remaining permits may be superseded in the future with a permit adopted by department order. There are also minor amendments to clarify wording in parts of the rule.

**2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?**

Yes X          No   

**a. If yes, identify existing program/rule/activity:**

The following water quality permit programs are identified under OAR 340-018-0030(5)(e) as DEQ programs and actions determined to have significant effects on land use: National Pollutant Discharge Elimination System permits issued pursuant to federal and state



regulations and Water Pollution Control Facilities permits issued pursuant to state regulations.

**b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?**

Yes  No  (if no, explain):

A land use compatibility statement signed by the local land use authority is required from the applicant prior to authorizing discharges under a National Pollutant Discharge Elimination System Permit or Water Pollution Control Facilities.

**c. If no, apply the following criteria to the proposed rules.**

**In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.**

Not applicable.

**3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.**

Not Applicable.