

## 401 Water Quality certification fees

### Background

The Oregon Department of Environmental Quality proposes to increase fees for certifying that activities requiring federal licenses and permits comply with water quality requirements and standards. DEQ certifies compliance as authorized by Section 401 of the federal Clean Water Act. The proposed fees apply to most projects that remove material from, or place fill into, navigable state waters. This includes sand and gravel operations or dredging for navigation channels. The fees would not apply to hydroelectric projects.

DEQ has statutory authority to address this issue under Oregon Revised Statute 468. This rule implements ORS 468B.047.

### Hearings

DEQ seeks comments on the proposed changes, and will hold three hearings:

Wednesday, August 15  
6 p.m.  
Roseburg Central Library  
Ford Community Room  
1409 NE Diamond Lake Blvd  
Roseburg, OR 97470

Monday, August 20  
6 p.m.  
Columbia Gorge Community College  
Building 3, Classroom 3.203  
400 East Scenic Drive  
The Dalles, OR 97058

Thursday, August 23  
9:45 a.m.  
DEQ Headquarters Office  
Conference Room EQC-A  
811 SW Sixth Avenue  
Portland, OR 97204

### Why are rule changes needed?

This rulemaking would increase 401 certification fees so that DEQ has sufficient revenue to cover program costs, provide additional staff to expedite certification review and approval, and enhance technical assistance to applicants.

### What is the objective of this rulemaking?

Based on 2009 legislative direction, DEQ is proposing to charge 401 certification fees for previously exempt activities. Also, current 401 certification fees will be increased to support additional staff. Fees will be

based on program costs, rather than on material amounts removed and filled, as they currently are structured.

### Who may be affected?

The proposed changes will apply to most projects that require federal permits or licenses for removal, fill or other activities, except hydroelectric projects, that may result in discharges to Oregon's navigable waters. Applicants could include individuals, small and large businesses such as mining operations, local governments, state and federal agencies and other entities.

### How was this proposal developed?

DEQ convened an advisory committee with representatives from the various types of 401 certification fee payers to help develop the proposed rule changes.

### Document review

Copies of documents used to develop this rule proposal are available for review at the DEQ Northwest Region Office, 2020 SW 4<sup>th</sup> Avenue, Suite 400, Portland, Oregon. For a document review appointment, please contact Diana Adams at 503-229-5552 or 800-452-4011.

The following materials are available at:

<http://www.deq.state.or.us/wq/sec401cert/rulemaking.htm>

- A: Proposed Rule Changes
- B: Statement of Need and Fiscal Impact
- C: Land Use Evaluation Statement
- D: Relationship to Federal Requirements

### How to comment

Comments on the proposed rulemaking may be submitted in writing via mail, to Steve Mrazik, Oregon DEQ, 2020 SW 4<sup>th</sup> Avenue, Suite 400, Portland, Oregon 97201-4987; by email to [401Rulemaking@deq.state.or.us](mailto:401Rulemaking@deq.state.or.us); or by fax to 503-229-6957.

### Comment deadline: Wednesday, Aug. 29, 2012

All comments are due by 5 p.m. on Wednesday, Aug. 29, 2012. DEQ cannot consider comments from any party received after the deadline for public comment.



**Water Quality Division  
Program Policy and  
Project Assistance**  
811 SW 6<sup>th</sup> Avenue  
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Phone: 503- 229-5696  
1- 800-452-4011  
Fax: 503- 229-5850  
Contact: Steve Mrazik  
[www.oregon.gov/DEQ](http://www.oregon.gov/DEQ)

**How will rules be adopted?**

DEQ will prepare a response to all comments received during the public hearing and comment period and may modify the proposed rules. DEQ plans to recommend that the Oregon Environmental Quality Commission adopt the rules at the commission's October 2012 meeting. DEQ will notify those who commented of the time and place for final commission action.

**Alternative  
formats/accommodations**

Alternative formats (Braille, large type) of this document can be made available by contacting DEQ's Office of Communications and Outreach, Portland, at 503-229-5696, or by calling toll-free in Oregon at 1-800-452-4011, ext. 5696. People with hearing impairments may dial 711 in Oregon.