

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form

Department of Environmental Quality	340
Agency and Division	Administrative Rules Chapter Number
Maggie Vandehey	(503) 229-6878
Rules Coordinator	Telephone
Department of Environmental Quality, 811 SW Sixth Ave., Portland, OR 97204-1390	
Address	

RULE CAPTION

Increase water quality permit fees to address program costs

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

Hearing Date	Time	Location	Hearings Officer
8-20-13	6:00 p.m.	DEQ 811 SW Sixth Ave. Portland, OR 97204	DEQ staff

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

AMEND:

OAR 340-045-0075, 340-071-0140

REPEAL:

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 454.625, 468.020, 468.065

Other Authority:

Statutes Implemented:

ORS 454.745, 454.755, 468.065, 468B.035, 468B.050, 468B.051 & 468B.195

RULE SUMMARY

DEQ proposes increasing most water quality permit fees by 2.9 percent.

In 2002, DEQ convened the Blue Ribbon Committee on Wastewater Permitting to recommend improvements to DEQ's water quality permit program. The committee included industry, environmental and local government representatives. In 2004, the committee published a report containing a variety of recommendations, including increasing fee revenue by no more than 3 percent each year to address increasing program costs. The annual fee increase recommendation was adopted into law in 2005. To address increasing program costs, DEQ implemented fee increases in 2007, 2008, 2010, 2011 and 2012 and proposes this 2013 permit fee increase of 2.9 percent.

The Agency 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.

08-23-2013 5:00 p.m.	Maggie Vandehey	maggie.vandehey@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

FILED 7-15-13 11:39 AM ARCHIVES DIVISION SECRETARY OF STATE

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.
ARC 923-2003

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

Department of Environmental Quality
Agency and Division

340
Administrative Rules Chapter Number

Increase water quality permit fees to address program costs

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Increase water quality permit fees to address program costs

Statutory Authority:

ORS 454.625, 468.020, 468.065

Other Authority:

Statutes Implemented:

ORS 454.745, 454.755, 468.065, 468B.035, 468B.050, 468B.051 & 468B.195

Need for the Rule(s):

Based on a comparison of the 2013-15 Governor's Balanced Budget and the 2011-13 Legislatively Adopted Budget, the estimated water quality program costs would increase 7.1 percent per full-time employee each fiscal year during the 2013-15 biennium.

DEQ analyzed expected cost increases per full-time employee for fiscal year 2014 relative to the costs for fiscal year 2013 to establish the amount of the proposed increase for fiscal year 2014 (July 1, 2013-June 30, 2014). The projected increases in personnel services can be attributed to projected increasing costs of salaries and fringe benefits. Cost increases are also projected for services and supplies, such as rent and utilities. The combined effects of the budget categories represent a total increase of 7.1 percent in projected costs for fiscal year 2014.

The proposed rule solves only part of the problem of increased program costs. Oregon Revised Statute 468B.051 authorizes the Environmental Quality Commission to raise fees annually. The annual amount may not exceed the anticipated increase in the cost of administering the permit program or 3 percent, whichever is lower. The estimated program cost increase of 7.1 percent for fiscal year 2014 is greater than the maximum 3 percent allowed by law.

Applying the three percent fee increase in the 2013-15 Governor's Balanced Budget would result in permit fees supporting 62 percent of the water quality permit program budget. This proposal recommends the lower 2.9 percent increase to meet the Blue Ribbon Committee recommendation in its 2004 report that funding for the permit program budget be 60 percent permit fees and 40 percent public funds (federal, general). This is consistent with how the 2012 fee increase was calculated.

Documents Relied Upon, and where they are available:

Blue Ribbon Committee Report on Key Enhancements to the Oregon Wastewater Permitting Program – 2004

<http://www.deq.state.or.us/wq/pubs/reports/blueribbonrpt.pdf>

Oregon Revised Statutes 468B.051

<http://www.leg.state.or.us/ors/468b.html>

Available at DEQ Headquarters

Cost factors approved through the state's budget process

Compensation plan changes

Fee increase calculations

DEQ 2011-13 Legislatively Approved Budget

DEQ 2013-15 Governor's Balanced Budget

DEQ's water quality permit database

Application and annual fee invoice records

Fiscal and Economic Impact:

Large businesses (not considered small businesses)

DEQ estimates 150 wastewater permit holders are large businesses and would be affected by the 2.9 percent fee increase. DEQ anticipates

that for these businesses, the fee increase is small compared to the overall yearly operating costs or permit holders.

Small businesses (50 or fewer employees)

For section 2 below, DEQ used Oregon Employment Department information to calculate the impact of the proposed fee increases on small businesses. In 2006, the Oregon Employment Department found that 96 percent of Oregon businesses were small businesses. Although DEQ cannot determine the extent to which the 2.9 percent fee increases will affect each permit holder, DEQ expects that the fee increase will have an impact on small businesses. Fiscal impact to a small business depends on the type of permit issued, but application fee increases would range from \$6 to \$1,469 and annual fee increases would range from \$2 to \$2,724.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

State agencies

Twenty-one Oregon state agencies hold about 137 water quality permits. Fiscal impact to state agencies depends on the type of permit issued, but application fee increases would range from \$6 to \$1,469 and annual fee increases would range from \$2 to \$2,724. Impact on DEQ - the proposed 2.9 percent fee increase will generate approximately \$145,000 during fiscal year 2014 to cover increased water quality program costs.

Local governments

For this section, a local government is defined as 1) a group of local government functions within a jurisdiction that each hold water quality permits (e.g., City of Portland – including Portland School District and Port of Portland – is counted as one local government); or 2) a single organization within a jurisdiction, if only one local government function holds a permit (e.g., includes but is not limited to water districts, cities, towns, ports, sanitary districts, library districts, counties and school districts). This rulemaking will increase water quality permit fees by 2.9 percent for 361 local governments that hold approximately 653 permits. Fiscal impact to local governments depends on the type of permit issued, but application fee increases would range from \$6 to \$1,469 and annual fee increases would range from \$2 to \$2,724.

Public

Though DEQ cannot determine the extent to which the proposed fees will affect each consumer, DEQ expects some impact on the public, primarily through an increase to the costs of goods and services offered by permit holders.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

DEQ estimates 3,000 wastewater permit holders are small businesses, and would be affected by the 2.9 percent fee increase.

The types of small businesses/industries holding wastewater permits include, but are not limited to: food processors, mining operations, dairies, fish hatcheries, smelting/refining operations, timber processing, wood products manufacturing, retail operations, seafood processors, gravel mining, wineries, seasonal fresh pack operations, petroleum hydrocarbon clean-up operations, and vehicle and equipment wash water operations.

The types of small businesses/industries holding WPCF Onsite septic system permits include, but are not limited to: machine shops, offices, retail stores, recreation vehicle parks, mobile home parks, private camps, golf courses, churches, resorts, restaurants, gas stations, markets, taverns and industry.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed rules do not require additional administrative activities.

c. Equipment, supplies, labor and increased administration required for compliance:

The proposed rules do not require additional equipment or administration requirements.

How were small businesses involved in the development of this rule?

The proposal to allow DEQ to seek an up-to-three percent annual fee increase to account for program cost increases originated with the Blue Ribbon Committee. The committee represents the wastewater community as a whole, and includes small businesses. DEQ met with the committee on May 23, 2013, provided a summary of the proposed rule, and gathered input.

Administrative Rule Advisory Committee consulted?: Yes

If not, why?:

08-23-2013 5:00 p.m.	Maggie Vandehey	maggie.vandehey@state.or.us
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address

FILED

7-15-13 11:39 AM

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SECRETARY OF STATE

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