

NOTICES OF PROPOSED RULEMAKING

Department of Corrections Chapter 291

Rule Caption: Non-Cash Incentives for Inmates in Department of Corrections Institutions

Stat. Auth.: ORS 179.040, 423.020, 423.030 & 423.075

Stats. Implemented: ORS 179.040, 423.020, 423.030 & 423.075

Proposed Amendments: 291-077-0035

Last Date for Comment: 10-18-13, 5 p.m.

Summary: The department has developed non-cash incentives to encourage pro-social behavior among inmates and to motivate inmates toward positive institutional behavior and program compliance. These modifications are necessary to update the privileges and services available to inmates to increase the effectiveness of the use of incentives in managing inmate behavior.

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Department of Energy Chapter 330

Rule Caption: Amending EIP rules to increase the application fee, final review fee and pass-through fee.

Date:	Time:	Location:
9-23-13	9 a.m.	Oregon Department of Energy 625 Marion St. NE Salem, OR 97301

Hearing Officer: Elizabeth Ross

Stat. Auth.: ORS 469.040, 469B.164, 469B.259, 469B.265, 469B.294, 469B.306, 469B.335 & 469B.347

Stats. Implemented: ORS 469B.130-469B.347, 315.331, 315.336 & 315.354-315.357

Proposed Amendments: 330-090-0150, 330-200-0040, 330-210-0040, 330-220-0040, 330-225-0040

Last Date for Comment: 9-23-13, 5 p.m.

Summary: The above referenced statutes direct the Oregon Department of Energy to estimate the total cost of the energy incentive programs and set fees to recover the anticipated cost of administering and enforcing the program. The fees are designed not to exceed the total cost estimated by the department. Recently with changes in the program and complexity of applications, the department has not collected fees sufficient to recover the actual cost of the program. The proposed energy incentive program fees were explained and included in the budget approved by the legislature as part of the 2013-2015 budget process. The rule amendments propose adoption of the fee increases for the application, final review and pass-through fees for the renewable energy development grant, energy conservation tax credit and transportation tax credits. The rule amendments also remove the re-inspection fee for tax credits and grants. The planned effective date for the proposed rules and change in fees is October 2, 2013.

A call-in number is available for the public hearing, please see website for details: http://www.oregon.gov/energy/CONS/Pages/Rulemaking-Energy_Incentive_Program.aspx

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Department of Environmental Quality Chapter 340

Rule Caption: Updating Oregon's Civil Penalty Rules

Date:	Time:	Location:
9-17-13	2 p.m.	DEQ 811 SW Sixth Ave. Portland OR

Hearing Officer: Jenny Root

Stat. Auth.: ORS 183.335, 183.341, 183.452, 192.410-505, 195.305, 454, 454.050, 454.625, 459.045, 459.376, 459.995, 459A.585, 459A.590, 465.280, 465.400-410, 466, 466.070-080, 466.625, 466.720, 466.746, 466.882, 466.858-994, 467, 467.030, 468.020, 468.065, 468.090-140, 468.996, 468A, 468A.025, 468A.045, 468A.327, 468B, 468B.015, 468B.035, 468B.350 & 783.620-992

Stats. Implemented: ORS 183.025, 183.090, 183.335, 183.341, 183.390, 183.410, 183.413, 183.415, 183.425, 183.440, 183.450, 183.452, 183.457, 183.460, 183.464, 183.470, 183.480, 183.482, 183.484, 183.745, 183.090, 192.410-440, 192.501, 192.502, 197.352, 454, 454.635, 454.645, 459, 459.205, 459.376, 459.705-790, 459.992, 459.995, 459A.580-585, 459A.590, 459A.665, 459A.660, 459A.685, 465, 465.021, 465.210, 465.900, 465.992, 466, 466.210, 466.255, 466.265-270, 466.530, 466.635-680, 466.706-835, 466.858-895, 466.990-994, 467.050, 467.990, 468, 468.020, 468.035, 468.070, 468.090-140, 468.996, 468A, 468A.020, 468A.025, 468A.060, 468A.990, 468A.992, 468B, 468B.025, 468B.220, 468B.305, 468B.450, 783.620 & 783.992

Proposed Amendments: 340-011-0005, 340-011-0010, 340-011-0024, 340-011-0029, 340-011-0046, 340-011-0053, 340-011-0061, 340-011-0310, 340-011-0330, 340-011-0340, 340-011-0360, 340-011-0370, 340-011-0380, 340-011-0390, 340-011-0500, 340-011-0510, 340-011-0515, 340-011-0520, 340-011-0525, 340-011-0530, 340-011-0535, 340-011-0540, 340-011-0545, 340-011-0550, 340-011-0555, 340-011-0565, 340-011-0570, 340-011-0573, 340-011-0575, 340-011-0580, 340-011-0585, 340-012-0026, 340-012-0027, 340-012-0028, 340-012-0030, 340-012-0038, 340-012-0041, 340-012-0045, 340-012-0053, 340-012-0054, 340-012-0055, 340-012-0060, 340-012-0065, 340-012-0066, 340-012-0067, 340-012-0068, 340-012-0071, 340-012-0072, 340-012-0073, 340-012-0074, 340-012-0079, 340-012-0081, 340-012-0082, 340-012-0083, 340-012-0097, 340-012-0130, 340-012-0135, 340-012-0140, 340-012-0145, 340-012-0150, 340-012-0155, 340-012-0160, 340-012-0162, 340-012-0165, 340-012-0170, 340-200-0040

Proposed Repeals: 340-011-0605

Last Date for Comment: 9-20-13, 5 p.m.

Summary: DEQ proposes the following changes to chapter 340 of the Oregon Administrative Rules.

- Division 011 amendments would:

- Align with the Oregon Attorney General Model Rules under OAR 340-003-0501 through 0690. The Model Rules that apply to Environmental Quality Commission proceedings became effective Jan. 31, 2012.

- Address procedures for filing and service of documents in contested cases and other general contested case proceedings.

- Establish a new fee for onsite septic system program public records requests. This would allow DEQ to recover the costs of fulfilling such requests.

- Repeal OAR 340-011-0605 that became obsolete in 2007 with the passage of Measure 49. Measure 49 substantially reduced the impact of Measure 37 and the required director's review.

- Make minor housekeeping changes.

- Division 012 amendments would implement 2009 Oregon legislation that increased DEQ's civil penalty statutory maximums, many last updated in 1973. To implement the enhanced penalty authority, DEQ must amend Division 012 rules. Other proposed changes include aligning violation classification and magnitudes with DEQ program priorities, providing greater mitigating credit for correcting violations, and housekeeping that includes eliminating duplicative text.

- Division 200 amendments would update the Oregon Clean Air Act State Implementation Plan. Section 110 of the Clean Air Act, 42 U.S.C. §7410, requires state and local air pollution control agencies to adopt federally approved control strategies to minimize air pollution. The resulting body of regulations is a State Implementation Plan or "SIP". By incorporating updated civil penalties and violations, these proposed rules would be a revision to Oregon's SIP. DEQ

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must submit rule changes to EPA and EPA must approve the rules as meeting the requirements of the Clean Air Act. After the Oregon Environmental Quality Commission amends the proposed rule, DEQ will submit SIP revisions to EPA for approval.

If approved, this proposal would:

Civil penalty matrices (OAR 340-012-0140)

- Increase the top base penalty in the current \$8,000 penalty matrix to \$12,000

- Increase the top base penalty in the current \$6,000 penalty matrix to \$8,000

- Increase the top base penalty in the current \$2,500 penalty matrix to \$3,000

- No changes to the current \$1,000 penalty matrix

Change to factors in the civil penalty formula (OAR 340-012-0145) by:

- Increasing credit for the “C” factor to apply mitigating credit for a violator’s efforts to correct violations

- Expanding the use of the “M” factor to assign a broader range of penalty aggravation when considering the mental state of the violator

Increase additional or alternate penalties for violations that pose an extreme hazard to public health or cause extensive environmental damage (OAR 340-012-0155)

Base penalties in this category would increase from \$50,000 to \$100,000 to a new range of \$100,000 to \$200,000 depending on whether violations are caused intentionally, recklessly or flagrantly.

Increase administrative penalty maximums to \$100,000 for certain spill violations of oil or hazardous materials

Penalties for intentionally or negligently spilling oil or hazardous materials into waters of the state, or intentionally or negligently failing to clean up such spills would increase from a maximum of \$20,000 to a maximum of \$100,000. In addition, a final penalty would be determined according to a new formula and additional factors not in the current rule.

Establish a base fee for onsite septic system program public records requests

Currently DEQ may only charge for public records requests if they require more than 15 minutes of staff time. DEQ estimates that public records requests in the onsite septic system program require 50 to 75 hours of staff time per month. Few requests exceed the 15-minute threshold; therefore, DEQ receives little revenue to cover the costs for this work. This amendment would allow DEQ to recover the costs for fulfilling these public records requests.

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Rule Caption: Corrections and Clarifications to Toxics Water Quality Standards

Date:	Time:	Location:
9-18-13	6 p.m.	DEQ 811 SW Sixth Ave. Portland, OR

Hearing Officer: DEQ staff

Stat. Auth.: ORS 468.020, 468B.030, 468B.035 & 468B.048

Stats. Implemented: ORS 468B.030, 468B.035 & 468B.048

Proposed Amendments: 340-041-0033, 340-041-0009, 340-040-0020, 340-040-0080

Last Date for Comment: 9-30-13, 5 p.m.

Summary: DEQ proposes revisions to the water quality standards rules for toxic substances to correct and clarify the standards. Revisions to water quality standards require EPA approval before the revisions become effective for Clean Water Act programs. The proposed rules correct several toxic pollutant criteria that EPA recently disapproved and address other minor revisions to the Toxic Substances rule. EPA disapproved criteria for 11 pesticides based on potentially conflicting information in regards to how the frequency

and duration components of these criteria are expressed. DEQ expects that clarifying this aspect of the criteria will lead to EPA approval of 36 pesticide criteria values associated with 11 pesticides. DEQ also proposes to correct an error in the expression of freshwater selenium criteria and is re-proposing freshwater and saltwater arsenic criteria and chromium VI saltwater criteria that were inadvertently left off the criteria table during a 2007 rulemaking. DEQ is also correcting typographical errors made during the 2011 Human Health Toxics Rulemaking.

In addition, DEQ proposes to move all effective aquatic life criteria from Tables 20, 33A, and 33B into a new aquatic life criteria table, Table 30, and to refer to the new table in the Toxic Substances rule language. As a result, Tables 20, 33A, and 33B are no longer needed and would be repealed under this proposal. DEQ also proposes to delete aluminum from Table 30 to reflect EPA’s disapproval of the freshwater criteria for aluminum because the disapproval renders the criteria ineffective and there are no other criteria for aluminum. DEQ anticipates adopting revised freshwater criteria for aluminum in a future rulemaking process.

DEQ anticipates that EPA will take action on the following water quality standard revisions proposed in this rulemaking before they become effective under the Clean Water Act: (1) revisions to pesticides and selenium criteria; (2) reinstatement of arsenic and chromium VI criteria and the associated conversion factors; (3) deletion of aluminum criteria; and (4) revisions to the Toxic Substances rule in OAR 340-041-0033. EPA will likely take an action on the editorial and formatting changes in this proposal, but not on the underlying criteria that were previously approved. Ultimately, EPA will determine which water quality standards it must formally approve or disapprove.

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Department of Fish and Wildlife Chapter 635

Rule Caption: Establish 2014 Seasons and Regulations for Game Mammals; Implement Oregon Landowner Damage Program

Date:	Time:	Location:
10-4-13	8 a.m.	Hallmark Resort 744 SW Elizabeth St. Newport, OR 97365

Hearing Officer: Oregon Fish & Wildlife Commission

Stat. Auth.: ORS 496.012, 496.138, 496.146, 496.162 & HB 2027 (2013)

Stats. Implemented: ORS 496.012, 496.138, 496.146, 496.162 & HB 2027 (2013)

Proposed Amendments: Rules in 635-008, 635-010, 635-043, 635-045, 635-060, 635-065, 635-066, 635-067, 635-068, 635-069, 635-070, 635-071, 635-072, 635-073, 635-075, 635-078, 635-080

Last Date for Comment: 10-4-13, Close of Business

Summary: Establish 2014 hunting regulations for game mammals, including season dates, open areas, location of cooperative travel management areas, wildlife areas, and other rules including, but not limited to, general hunting, and controlled hunt regulation. Adopt rules to implement HB 2027 (2013) which creates the Oregon Landowner Damage Program.

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Rule Caption: Amend Rules for Delays to Start of Commercial Ocean Dungeness Crab Fishery Seasons