Updating Oregon’s Civil Penalty Rules



**Submit written comments**

**By email**

Comment-Div12@deq.state.or.us

By mail

Oregon DEQ

Attn: Jenny Root

811 SW Sixth Ave.

Portland, OR 97204-1390

By fax  503-229-5100

Attn: Jenny Root

At hearing

Sept. 17, 2013, at 2 p.m.

***Issued*** *08/15/2013*

# Invitation to Comment

**DEQ invites input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules.**

DEQ proposal

DEQ proposes the following changes to OAR 340, division numbers 011, 012 and 200:

* Amend Division 011 to align with recent changes to the Oregon Attorney General Model Rules. These proposed rules address procedures for filing and service of documents in contested cases and other general contested case proceedings before the Environmental Quality Commission. An additional amendment to Division 011 is to include a new fee for onsite septic system program public records requests that will allow DEQ to recover the costs of fulfilling such requests.
* Amend Division 012 to implement 2009 Oregon legislation that increased DEQ’s civil penalty statutory maximums. Other proposed changes include aligning violation classification and magnitudes with DEQ program priorities, providing greater mitigating credit for correcting violations, and housekeeping including the elimination of duplicative text.
* Amend OAR 340-200-0040 to update the Oregon Clean Air Act State Implementation Plan. These rule changes are a revision to Oregon’s SIP and must be submitted to and approved by the EPA as meeting the requirements of the Clean Air Act.

DEQ’s objective

The objective of this rulemaking is

to ensure DEQ rules align with the current Attorney General’s Model Rules and DEQ’s statutory civil penalty authority. DEQ is also making minor changes to reflect DEQ’s current environmental programs’enforcement priorities, and to provide a means to recover costs for fulfilling public records requests in the onsite septic system program.

DEQ intends to use the new Division 011 rules, which will conform to the Attorney General’s Model Rules, to eliminate confusion and provide clear direction to DEQ staff and the public for filing and service of documents and other contested case proceedings. DEQ intends to use the new Division 012 rules which, depending on the factual circumstances of each case, are likely to increase some penalties consistent with the new statutory maximums.

Who does this affect?

Parties affected by this proposal include all businesses, government entities and individuals subject to DEQ regulatory requirements and may be assessed a civil penalty or ones that must file or serve documents for a contested case hearing. Anyone requesting public records in the onsite septic system program will also be affected by this rule amendment.

Sign up for notices

Get email updates about this proposed rule by signing up at: [www.deq.state.or.us/regulations/rulemaking.htm](http://www.deq.state.or.us/regulations/rulemaking.htm)

Attend a hearing

DEQ invites you to attend a public hearing listed below. The presiding officer will provide a brief overview of the proposal before inviting your spoken or written comment.

DEQ - Portland

811 SW SW Sixth Avenue

Conference room EQC-A

Time: 2 p.m.

Date: Tuesday, Sept. 17, 2013

Presiding Officer: Jenny Root

Comment deadline

To consider comments on the proposed rules, DEQ must receive the comment by

5 p.m. Friday, Sept. 20, 2013.

More information

The Rule Proposal and Notice for this rulemaking are on DEQ’s website: [www.deq.state.or.us/regulations/proposedrules.htm](http://www.deq.state.or.us/regulations/proposedrules.htm)

**What has happened so far?**

Advisory committee

DEQ convened the Division 012 advisory committee Nov. 28, 2012. Committee members were asked to provide DEQ with comments on the proposed rule changes that reflect their perspectives and beliefs about DEQ’s penalty calculation formula and process.

Documents used to develop the proposal

DEQ relied on the following documents to consider the need for the proposed rule and to prepare the rulemaking documents:

* [Attorney General Model Rules](http://www.doj.state.or.us/help/explain_ag_model_rules.shtml)
* [Senate Bill 105A](http://www.leg.state.or.us/09reg/measpdf/sb0100.dir/sb0105.en.pdf)
* [Oregon Revised Statutes](http://www.deq.state.or.us/regulations/statutes.htm)
* [Oregon Administrative Rules](http://www.deq.state.or.us/regulations/rules.htm.)
* [Water Quality Policy Option Package #120](http://www.deq.state.or.us/msd/budget/1315GBB/GBB2013-15.pdf)

**What will happen next?**

DEQ will prepare a written response to each comment or summary of similar comments received by the comment deadline. DEQ may modify the rule proposal based on the comments.

Comments and responses will become part of the DEQ staff report that will go to the Oregon [Environmental Quality Commission](http://www.oregon.gov/DEQ/EQC/index.shtml) for final decision at its December 2013 meeting in Portland.

Accessibility information

Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach, Portland, at 503-229-5696 or call toll-free in Oregon at 1-800-452-4011; fax to 503-229-6762; or email to

deqinfo@deq.state.or.us. People with hearing impairments may call 711.