Oregon Department of Environmental Quality

ENTER EQC MEETING DATEEnter EQC Meeting Date mm dd, yyyy

Oregon Environmental Quality Commission Meeting

Agency Staff Report

Rulemaking Action Item No. XX

**Enter Rulemaking Name Here**

Instructions are in gold font. Delete all before distributing document.

## Note – Tables

If you use tables in your document, they must use the formatting illustrated in the table below, as to fonts and borders. You can copy and paste to other locations in the document.

|  |
| --- |
| Table Title (Arial 16)Additional Title (Arial 14)Even More Info (Arial 11) |
| **Subheading 1 (Arial 14)** | **Subheading 2 (Arial 14)** |
| **Subheading 3 (Arial 12)** |
| Data (Times New Roman 11) | Data | Data | Data |

## Table of Contents

[DEQ recommendation to the EQC 3](#_Toc490121542)

[Overview 4](#_Toc490121543)

[Optional Additional Topic from Notice 5](#_Toc490121544)

[Statement of Need 6](#_Toc490121545)

[Rules affected, authorities, supporting documents 7](#_Toc490121546)

[Fee Analysis 8](#_Toc490121547)

[Statement of fiscal and economic impact 9](#_Toc490121548)

[Federal relationship 10](#_Toc490121549)

[Land Use 11](#_Toc490121550)

[Advisory Committee 12](#_Toc490121551)

[Public Hearings 13](#_Toc490121552)

[Summary of comments and DEQ responses 14](#_Toc490121553)

[Commenters 17](#_Toc490121554)

[Implementation 18](#_Toc490121555)

[Five-year review 20](#_Toc490121556)

[Draft Rules – With Edits Highlighted 22](#_Toc490121557)

[Draft Rules – With Edits Included 23](#_Toc490121558)

[Supporting Documents 24](#_Toc490121559)

|  |
| --- |
| DEQ recommendation to the EQC  |

Choose one and delete the others; or draft your own recommendation based on these examples:

DEQ recommends that the Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

OR

THIS EXACT LANGUAGE MUST BE INCLUDED for SIP rulemakings:

DEQ recommends that the Environmental Quality Commission:

Adopt the proposed rules in Attachment A as part of chapter 340 of the Oregon Administrative Rules; and

Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and

Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.

## YOU WILL POPULATE MOST OF THE STAFF REPORT DOCUMENT BY COPYING THE SAME-NAMED SECTIONS FROM THE RULEMAKING NOTICE DOCUMENT.

|  |
| --- |
| Overview |

**Short summary of proposed rule changes**

**Background of reasons for doing this rulemaking**

**How this rulemaking addresses the reasons for doing the rulemaking**

**Key policy and technical issues**

**Affected parties**

**Outreach efforts and public and stakeholder involvement**

**Hearing testimony**

**Summary of significant public comments and responses**

**Effects of this rulemaking on any fees**

**Brief summary of fiscal impact**

|  |
| --- |
| Optional Additional Topic from Notice |

**REVIEWERS do not edit or modify this section**

 Management reviewed and edited this section. It was then published with the Public Notice. Do not modify it except to correct typographical errors.

|  |
| --- |
| Statement of Need |

**REVIEWERS do not edit or modify this section**

 Management reviewed and edited this section. It was then published with the Public Notice. Do not modify it except to correct typographical errors.

|  |
| --- |
| Rules affected, authorities, supporting documents Rules affected, authorities, supporting documents |

**REVIEWERS do not edit or modify this section**

 Management reviewed and edited this section. It was then published with the Public Notice. Do not modify it except to correct typographical errors.

|  |
| --- |
| Fee Analysis |

**REVIEWERS do not edit or modify this section**

 Management reviewed and edited this section. It was then published with the Public Notice. Do not modify it except to correct typographical errors.

|  |
| --- |
| Statement of fiscal and economic impact |

**REVIEWERS do not edit or modify this section**

 Management reviewed and edited this section. It was then published with the Public Notice. Do not modify it except to correct typographical errors.

|  |
| --- |
| Federal relationship |

**REVIEWERS do not edit or modify this section**

 Management reviewed and edited this section. It was then published with the Public Notice. Do not modify it except to correct typographical errors.

|  |
| --- |
| Land Use |

**REVIEWERS do not edit or modify this section**

 Management reviewed and edited this section. It was then published with the Public Notice. Do not modify it except to correct typographical errors.

|  |
| --- |
|  Advisory Committee |

## Advisory committee

## Background

The committee members were:

|  |
| --- |
| CodeName Rulemaking Advisory Committee |
| **Name** | **Representing** |
|  |  |
|  |  |
|  |  |
|  |  |

## Meeting notifications

To notify people about the advisory committee’s activities, DEQ:

* On January 12, 2016 and February 17, 2016, sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
	+ Rulemaking ()
	+
* Added advisory committee announcements to DEQ’s calendar of public meetings at [DEQ Calendar](http://oregon.gov/deq/Pages/Events.aspx).
* Provided news release statements announcing advisory committee meeting details
* Provided notice of meetings and links to committee information through postings on Facebook and Twitter.

## Committee discussions

Meeting minutes and recordings are available by request from DEQ or from the advisory committee webpage at:.

## EQC prior involvement

DEQ shared general information with EQC about this rulemaking proposal in the monthly Director’s Report for the XXXX EQC meeting in XXXX Oregon.

DEQ did not present additional information specific to this proposed rule revision.

## Public Notice

DEQ provided notice of the proposed rulemaking and hearing by:

* On DATE, filing with the Secretary of State for publication in the DATE *Oregon Bulletin*
* Posting notice on the DEQ rulemaking web page:
* On DATE sending email notices through GovDelivery to the following subscriber lists:
	+ Rulemaking ( # of subscribers)
	+ DEQ Public Notices ( # of subscribers)
* Issuing a press release
* Emailing the following key legislators:
	+ Senator
	+ Representative

## Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rules’ substantive goals while reducing the rules’ negative economic impact on business. This document includes a summary of comments and DEQ responses.

|  |
| --- |
|  Public Hearings |

## Public hearings

DEQ heldone (a) public hearing(s). DEQ received XX comments at the hearing. Later sections of this document include a summary of the XX comments received during the open public comment period, DEQ’s responses, and a list of the commenters. Original comments are on file with DEQ.

## Presiding Officers’ Record

### Hearing 1

Date:

Place:Meeting location: Portland, OR

Start Time:

Ending Time:Meeting date and time: May 18, 2016; 3-5 p.m.

Presiding Officer:

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

**EITHER:**

XX number of people attended the hearing in person and XX number of people attended by teleconference or webinar. XX number of people commented orally and XX number of people submitted written comments at the hearing.

**OR:**

No person presented any oral testimony or written comments.

## Public comment period

## DEQ accepted public comment on the proposed rulemaking from DATE until 4:00 p.m. on DATE.

|  |
| --- |
| Summary of comments and DEQ responses |

#

For public comments received by the close of the public comment period, the following table organizes comments into NUMBER OF CATEGORIES categories with cross references to the commenter number. DEQ’s response follows the summary. Original comments are on file with DEQ.

Select one of the following two statements:

DEQ did not change the proposed rules in response to comments.

DEQ changed the proposed rules in response to comments described in the response sections below.

Choose the format that suits your information, depending on the number of comments and commenters. If it is helpful, you can include a table like this, listing comments and ID of commenters who made that comment:

Option 1:

|  |
| --- |
| **List of Comments** |
| **Comment #** | **Comment Summary** | **Commenter Numbers** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |

Select one option below

Option 2:

**Comment 1**

DEQ received XX NUMBER comments in this category from commenters Cross reference to commenter number or numbers submitted in this category using format ##, ##, ## and ##.

Enter a summary of this comment category.

**Response**

Enter DEQ’s response to this category of comments.

**Comment 2**

DEQ received XX NUMBER comments in this category from commenters Cross reference to commenter number or numbers submitted in this category using format ##, ##, ## and ##.

Enter a summary of this comment category.

**Response**

Enter DEQ’s response to this category of comments.

**Comment 3**

DEQ received XX NUMBER comments in this category from commenters Cross reference to commenter number or numbers submitted in this category using format ##, ##, ## and ##.

Enter a summary of this comment category.

**Response**

Enter DEQ’s response to this category of comments.

|  |
| --- |
| Commenters |

## Comments received by close of public comment period

The table below lists number of commenters people and organizations that submitted public comments about the proposed rules by the deadline. Original comments are on file with DEQ.

Use one of the two alternate formats for listing commenters; either a list or a table.

**Commenter 1** NAME

AffiliationORGANIZATION

This commenter submitted comments under categories Cross reference to comment category using ##, ##, ##, and ## format in the *Summary of comments and DEQ responses* section above.

**Commenter 2** NAME

AffiliationORGANIZATION

This commenter submitted comments under categories Cross reference to comment category using ##, ##, ##, and ## format in the *Summary of comments and DEQ responses* section above.

**Commenter 3** NAME

AffiliationORGANIZATION

This commenter submitted comments under categories Cross reference to comment category using ##, ##, ##, and ## format in the *Summary of comments and DEQ responses* section above.

**OR**

| **List of Commenters** |
| --- |
| **#** | **Name** | **Organization** | **Comment Number** | **Hearing #** |
| 1 | Bob Smith | Smith Associates | 1, 3 |  |
| 2 | Bob Jones | Jones Associates | 2, 4 |  |
| 3 | Bob Brown | Brown Associates | 5, 6 |  |

Add more commenters by copying and pasting additional commenter sections here.

|  |
| --- |
| Implementation  |

## Notification

The proposed rules would become effective upon filing on approximately DATE mmm, dd, yyyy. DEQ would notify affected parties by:

Describe Notification (PARTIES AND METHOD USED TO PROVIDE NOTICE)

## Compliance and enforcement

* Affected parties -Text
* DEQ staff - Text

## Measuring, sampling, monitoring and reporting

* Affected parties - Text
* DEQ staff - Text

## Systems

* Website - Text
* Database - Text
* Invoicing - Text

**Training**

* Affected parties - Text
* DEQ staff - Text

|  |
| --- |
| Five-year review ORS 183.405 |

Requirement

Oregon law requires DEQ to review newrules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

## Exemption from five-year rule review

DELETE THIS PARAGRAPH IF NO RULES ARE EXEMPT FROM REVIEW:

The Administrative Procedures Act exempts CHOOSE ONE: SOME … ALL of the proposed rules from the five-year review because the proposed rules would:

DELETE ANY THAT DON’T APPLY:

* Amend or repeal an existing rule. ORS 183.405(4).
* Implement a court order or a civil proceeding settlement. ORS 183.405(5)(a).
* Adopt a federal law or rule by reference. ORS 183.405((5)(b).
* Implement legislatively approved fee changes. ORS 183.405(5)(c).
* Correct errors or omissions in the existing rules. ORS 183.405(d).

DELETE THIS PARAGRAPH IF ANY OF THE RULES ARE EXEMPT FROM REVIEW:

None of these proposed rules are exempt from the five-year review under ORS 183.405(4) and 183.405 (5) of the Administrative Procedures Act.

DELETE THIS PARAGRAPH IF NO RULES ARE SUBJECT TO FIVE YEAR REVIEW:

## Five-year rule review required

No later than DATE FIVE YEARS FROM ADOPTION. DEQ will review the newly adopted rules for which ORS 183.405 (1) requires review to determine whether:

* The rule has had the intended effect
* The anticipated fiscal impact of the rule was underestimated or overestimated
* Subsequent changes in the law require that the rule be repealed or amended
* There is continued need for the rule.

DEQ will use “available information” to comply with the review requirement allowed under ORS 183.405 (2).

DEQ will provide the five-year rule review report to the advisory committee to comply with ORS 183.405 (3)

|  |
| --- |
| Draft Rules – With Edits Highlighted |

|  |
| --- |
| Draft Rules – With Edits Included |

|  |
| --- |
| Supporting Documents |