**Document Review Checklist**

**Rulemaking Name: WQ Fees 2019**

**Document Name: EQC Staff Report**

Every document that will be shared with anyone outside of DEQ staff must go through management review. This includes reports and PowerPoint presentations.

All documents must be reviewed and approved by the Program Manager, Communications, and either the Agency Rules Coordinator or the Air Quality Rules Coordinator.

The Notice of Rulemaking and EQC Staff Report must also be reviewed and approved by the relevant Division Administrator.

You do not need to use this checklist for routine editing. You should use this checklist whenever a required reviewer is completing their required review and approving the document for distribution.

Each required reviewer should add their name and the date when they complete their final review and approve the document for distribution.

|  |  |  |
| --- | --- | --- |
| **Reviewer** | **Name** | **Due Date** |
| ~~Program Mgr~~ | ~~Skip~~ |  |
| ~~Communications~~ | ~~Susan Mills~~ | ~~May 22 -May 30~~ |
| ~~Fiscal Analyst~~ | ~~Adam Coutu~~ |  ~~May 30 – Jun 5~~ |
| ~~DA~~ | ~~Justin Green~~ |  ~~Jun. 5 – Jun.13~~ |
| EQC staff | Stephanie Caldera | July 12 |

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

**2019 Water Quality Fee Increase Rulemaking**

**Table of Contents**

[DEQ Recommendation to the EQC 3](#_Toc11238758)

[Overview 4](#_Toc11238759)

[Statement of Need 6](#_Toc11238760)

[Rules Affected, Authorities, Supporting Documents 8](#_Toc11238761)

[Fee Analysis 9](#_Toc11238762)

[Statement of Fiscal and Economic Impact 13](#_Toc11238763)

[Federal Relationship 16](#_Toc11238764)

[Land Use 17](#_Toc11238765)

[Advisory Committee 19](#_Toc11238766)

[Public Hearings 21](#_Toc11238767)

[Summary of Comments and DEQ Responses 21](#_Toc11238768)

[Commenters 22](#_Toc11238769)

[Implementation 22](#_Toc11238770)

[Five-year Review 23](#_Toc11238771)

[Draft Rules – With Edits Highlighted 24](#_Toc11238772)

[Draft Rules – With Edits Included 25](#_Toc11238773)

[Supporting Documents 26](#_Toc11238774)

|  |
| --- |
| DEQ Recommendation to the EQC  |

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

Proposed EQC motion:

“I move that the commission adopt the proposed rule amendments, as seen on pages XX through XX of the staff report for this item, as part of Chapter 340 of the Oregon Administrative Rules Divisions 45 and 71.”

|  |
| --- |
| Overview |

### Summary of recommended rule changes

DEQ proposes rule amendments to increase water quality fees in 2019 for fiscal year 2020 by three percent above the 2018 fees. This three percent increase is provided in ORS 468B.051 and these fees apply to National Pollutant Discharge Elimination System permits and Water Pollution Control Facility permits.

The Water Quality Program's mission is to protect and improve Oregon's water quality. Protecting Oregon's rivers, lakes, streams and groundwater quality keeps these waters safe so they can be used for drinking water, fish habitats, recreation and irrigation. DEQ accomplishes this by developing and implementing water quality standards and clean water plans, issuing water quality permits, regulating sewage treatment systems and industrial dischargers, collecting and evaluating water quality data, providing grants and technical assistance to reduce nonpoint pollution sources and giving loans to communities to build treatment facilities.

DEQ needs the fee increase to help account for the anticipated rise in administration costs associated with the permit program. This increase will also help DEQ achieve its objective for a sustainable water quality program that issues timely, high quality permits and ensures compliance with permit conditions through inspections, enforcement and reporting to EPA.

DEQ must apply the new fees to invoices as of Oct. 1, 2019, to cover costs associated with implementing the permitting program and delivering services to regulated entities. Without this increase, DEQ would need to reduce permitting staff and delay implementing improvements to the program as identified in the report, [Recommendations and Implementation Plan](http://www.oregon.gov/deq/FilterDocs/wqp-FinalReport.pdf). The 2015 Oregon Legislature commissioned this report, which a third-party consultant completed in November 2016.

## Short summary

1. DEQ proposes the Oregon Environmental Quality Commission approve the rule amendments to increase water quality fees for fiscal year 2020 by three percent. These fees apply to National Pollutant Discharge Elimination System permits and Water Pollution Control Facility permits.

2. As part of this rulemaking, DEQ also proposes the Oregon Environmental Quality Commission approve the rule amendments tomodify the language in OAR 340-045-0075; Table 70F for the electronic reporting requirement waiver for NPDES and WPCF under the item in Table 70F for Other Fees; and for administrative activity fees under OAR 340-045-0075(9)(a). The fee table and rule modifications clarify the initial intent of the annual fee and waiver terminology to include the terms “temporary” and “permanent”waivers. EPA specifies details about temporary and permanent waivers for electronic reporting in Code of Federal Regulations Title 40, Part 127 (40 C.F.R. §127), 40 C.F.R. §§127.15 and 127.24. The EPA authorizes DEQ to administer the National Pollutant Discharge Elimination System (NPDES) program (except Sewage Sludge/Biosolids) in Oregon. Note: This rulemaking does not apply to episodic waivers under 40 C.F.R. §127.

### Regulated parties

The proposed rules would affect individuals, businesses and government agencies that hold or apply for National Pollutant Discharge Elimination System permits and Water Pollution Control Facility permits.

### Request for other options

During the public comment period, DEQ requests input on whether to consider other options for achieving the rules’ substantive goals, while reducing the rules’ negative economic impacts on business.

|  |
| --- |
| 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.

| Proposed Rule or Topic | Discussion |
| --- | --- |
| Three percent increase for NPDES and WPCF fees |
| What need would the proposed rule address? | Without this increase, DEQ would need to reduce permitting staff and delay implementing improvements to the program as identified in the document: [Recommendations and Implementation Plan](https://www.oregon.gov/deq/FilterDocs/wqp-FinalReport.pdf). This is an independent third-party consultant report the 2015 Oregon Legislature commissioned. The report was completed in November 2016.  |
| How would the proposed rule address the need?  | DEQ must implement the new fees on invoices starting Oct. 1, 2019 to cover costs associated with implementing the permitting program and delivering services to regulated entities. |
| How will DEQ know the rule addressed the need? | If approved, DEQ would begin receiving fee revenue by Oct. 1, 2019. DEQ expects the proposed fees would sustain the needed staffing levels for the program through fiscal year 2020 that ends June 30, 2020.  |
| Modification of OAR 340-045-0075, Table 70F and OAR 340-045-0075(9)(a) |
| What need would the proposed rule address? | This modification clarifies the initial intent of the annual fee and waiver terminology for electronic reporting requirement waivers to include temporary and permanent waivers. EPA specifies details about temporary and permanent waivers from electronic reporting in Code of Federal Regulations Title 40, Part 127 (40 C.F.R. §127), 40 C.F.R. §§127.15 and 127.24. |
| How would the proposed rule address the need?  | OAR 340-045-0075, Table 70F under Other Feeswill add the bolded language: **Annual** **temporary** or **permanent** electronic reporting waiver. OAR 340-045-0075(9)(a) will add the bolded language: The **annual** electronic reporting requirement waiver fee applies to a permit holder who qualifies for **a temporary** **or permanent** waiver, exempting them from submitting data reports electronically.  |
| How will DEQ know the rule addressed the need? | When including the additional language, the proposed rule will clarify the intent of the initial rule.  |

|  |
| --- |
| 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.

### Lead division

Water Quality Division

### Program or activity

#### Water Quality Permitting and Program Development

### Chapter 340 action

### Amend - OAR

340-045-0075, 340-071-0140

### Statutory authority - ORS

468.020 (Rules and Standards)

468B.020 (Prevention of Pollution)

468B.035 (Implementation of Federal Water Pollution Control Act)

454.625 (Rules)

468.065(2) (Issuance of Permits; contents; rules; fees; use)

### Documents relied on for rulemaking

| Document title | Document location |
| --- | --- |
| Fee increase calculations  | DEQ Headquarters  |
| [Recommendations and Implementation Plan](https://www.oregon.gov/deq/FilterDocs/wqp-FinalReport.pdf)  | DEQ web page <https://www.oregon.gov/deq/FilterDocs/wqp-FinalReport.pdf> |
| DEQ 2017-2019 Legislatively Approved Budget  | DEQ Headquarters  |
| DEQ’s water quality permit database  | DEQ Headquarters  |
| Businesses by size or firm of 50 or fewer employees  | Oregon Employment Department website reports 875 Union Street NESalem, OR 97311 <https://www.qualityinfo.org/bi>  |

|  |
| --- |
| 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.

The Oregon Environmental Quality Commission approval of this rule proposal would increase existing fees.

EQC authority to act on the proposed fees is ORS 468B.051 (Fees for Water Quality Permit) and ORS 468B.050 (Water Quality Permit).

### Brief description of proposed fees

DEQ proposes rule amendments to increase water quality fees for fiscal year 2020 by three percent above the fiscal year 2019 fees. These fees apply to National Pollutant Discharge Elimination System permits and Water Pollution Control Facility permits.

DEQ proposes the following changes in this rulemaking:

### 1. Three percent increase for NPDES and WPCF fees

ORS 468B.051 authorizes the three percent increase. DEQ will apply the increase to the following permit fees:

* OAR 340-071-0140:
	+ Table 9D WPCF Permit Fees
* OAR 340-045-0075:
	+ Industrial NPDES and WPCF Individual Permits Application and Modification Fees; Table 70A;
	+ Industrial NPDES and WPCF Individual Permit Annual Fees; Table 70B;
	+ Domestic NPDES and WPCF Individual Permits, Application, Annual Modification Fees; Table 70C;
	+ Domestic NPDES and WPCF Annual Population Fees, Table 70D;
	+ Annual Pretreatment Fees, Table 70E;
	+ All NPDES and WPCF Permits, Technical Activity, Plan Review and Other Fees, Table 70F;
	+ General NPDES and WPCF Permits, Application and Annual Fees, Table 70G, excluding WPCF 2401 and 2402; and 700PM fees under authority Oregon Revised Statute 468B.118;
	+ Municipal Separate Storm Sewer System Permits: Annual Fees, Table 70H;and
	+ Underground Injection Control Permits Application Fees, Annual Fees, and Surcharges, Table 70I, excluding UIC fees authorized by rule under the authority of ORS 468B.195 and ORS 468B.196.

### 2. Modification of OAR 340-045-0075, Table 70F and OAR 340-045-0075(9)(a)

* This rulemaking requires modifying the existing rule language to clarify the initial intent of the annual electronic reporting requirement waiver terminology (“temporary” and “permanent waivers”). EPA specifies details about temporary and permanent waivers from electronic reporting in Code of Federal Regulations Title 40, Part 127 (40 C.F.R. §127), 40 C.F.R. §§127.15 and 127.24. The EPA authorizes DEQ to administer the National Pollutant Discharge Elimination System program (except Sewage Sludge/Biosolids) in Oregon. Note: This rulemaking does not apply to episodic waivers under 40 C.F.R. §127. OAR 340-045-0075, Table 70F will add the bolded language to the section of the fee table labeled “Other Fees”: Annual temporary or permanent electronic reporting waiver.
* OAR 340-045-0075(9)(a)will add the bolded language: The **annual** electronic reporting requirement waiver fee applies to a permit holder who qualifies for a temporary **or permanent** waiver exempting them from submitting data reports electronically.

### Reasons

DEQ must establish the new fees to implement the current service level of the 2019-21 budget to cover costs associated with implementing the permitting program and delivering services to regulated entities. Without this increase, DEQ would need to reduce permitting staff and delay initiating improvements to the program as identified in the report [Recommendations and Implementation Plan](https://www.oregon.gov/deq/FilterDocs/wqp-FinalReport.pdf). This is an independent third-party consultant report commissioned by the 2015 Oregon Legislature commissioned and completed in November 2016. Without this funding, water quality in Oregon will likely further degrade and there will be short- and long-term impacts on other regulated entities and communities needing federal approvals for financial assistance and federal permits.

### The proposed fees would address

The proposed fees would address the fee increase allowed by ORS 468B.051 (Fees for Water Quality Permits).

Not more than once each calendar year, the Environmental Quality Commission may increase the fees established under ORS 468.065 for permits issued under ORS 468B.050. The amount of the annual increase may not exceed the anticipated increase in the cost of administering the permit program or three percent, whichever is lower, unless a larger increase is provided for in the Department of Environmental Quality’s legislatively approved budget [2005 c.523 §2; 2015 c.640 §1].

### Fee proposal alternatives considered

Not increasing fees. Without the fee increase, DEQ would be unable to provide ongoing permit program functions at the current service level. Services may include the loss of or holding vacant permit writer positions. DEQ would also be unable to implement recommended program improvements identified in a 2017 audit and report.

**Other ways to reduce program costs.** DEQ has initiated cost-saving measures over the past four years that, over time, should reduce program costs. Examples include creating a permit writing team that has already resulted in more efficiency in issuing NPDES permits and digitizing water quality permit files. This is expected to save at least $9,000 per year in reduced storage costs as well as additional savings in staff time.

### Fee payer

The proposed fees would affect individuals, businesses and government agencies that hold or apply for the following permits:

* National Pollutant Discharge Elimination System permits
* Water Pollution Control Facility permits

### Affected party involvement in fee-setting process

DEQ solicited the fiscal advisory committee specifically to address the proposed water quality permit fees in OAR 340 divisions 45 and 71. The advisory committee includes stakeholders representing local governments, domestic and industrial permit holders, state agencies and environmental and citizen engagement organizations. The committee met on March 1, 2019, to review the proposed rule updates and to assess and comment on the fiscal impacts of DEQ’s proposed permit fee increase.

### Summary of impacts

With existing data, DEQ cannot determine the extent to which the proposed fees would affect each consumer. DEQ anticipates some indirect impact on the public if the permit holder were to increase the cost of goods and services or fees charged to ratepayers to offset the three percent fee increase. For example, the annual fee for stormwater construction activity performed by public agencies under a 1200-CA permit in OAR 340-045-0075, Table 70G would increase by an estimated $33, divided by the population served by the public agency.

### How long will the current fee sustain the program?

The current fees are not sufficient to sustain the program. Foregoing any fee increases would require DEQ to hold positions vacant during the biennium. For example, when developing its 2019-2021 Agency Request Budget, DEQ estimated that even with a three percent annual fee increase in 2019 and 2020, budgeted expenditures to maintain existing staff levels would exceed revenues by an estimated five percent. The shortfall will cause a reduction in the program’s fund balance.

### How long will the proposed fee sustain the program?

DEQ expects the proposed fees would sustain current program staffing levels through fiscal year 2020, which ends June 30, 2020. To sustain current staffing levels for fiscal year 2021, DEQ will likely need to propose, at minimum, the three percent fee increase allowed in ORS 468B.051.

|  |
| --- |
| Budget Comparison Table 1. January 1, 2019(Effective date of last fee increase: Oct. 1, 2018EQC adopted fee changes: Sept. 13, 2018) |
|  | **2017-2019 Legislatively Adopted Budget** | **2019-2021 Agency Request Budget (Modified current service level)** |
| Program costs covered by fees | $12,782,995 | 58% | $14,491,247 | 59% |
| Program costs covered by General Fund and Lottery Fund | $7,671,236 | 35% | $8,407,876 | 34% |
| Program costs covered by Federal Funding | $1,609,781 | 7% | $1,770,716 | 7% |

|  |
| --- |
| Budget CostsTable 2. January 1, 2019(Effective date of last fee increase: Oct. 1, 2018EQC adopted fee changes: Sept. 13, 2018) |
| **Budget Period** | **Cost per FTE** |
| 2017-19 Legislatively Adopted Budget | $301,956 |
| 2019-21 Agency Request Budget (Modified current service level) | $333,205 |
| Percent increase over a two-year period | 10.35% |

|  |
| --- |
| **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.

### Fiscal and economic impact

## Increasing NPDES and WPCF fees would benefit DEQ through increased financial support. The fee change will increase costs for entities that hold the affected permits or require fee-based services.

### Statement of cost of compliance

### State and federal agencies

The effect of the increase for NPDES and WPCF fees on state agencies depends on the permit type. Oregon state agencies hold approximately 116 active water quality permits.

Examples of the increase on select permit types include:

* Industrial NPDES fee permits for Tier 2 sources, dairies and fish hatcheries and facilities that dispose of wastewater only by evaporation from watertight ponds or basins will increase between $79 and $134. This affects approximately five state agencies (OAR 340-045-0075, Table 70B).
* Annual fees for WPCF individual permits will increase between $41and $455. This affects approximately five state agencies (OAR 340-045-0075, Table 70C).
* Annual fees for general NPDES and WPCF permits will increase between $11 and $18. This affects approximately 10 state agencies (OAR 340-045-0075, Table 70G).
* Annual compliance determination fees for WPCF permits will increase between $1 and $33. This affects approximately eight state agencies (OAR 340-071-0140, Table 9D).

### Local governments

The effect of the three percent increase for NPDES and WPCF fees on local governments depends on the permit type. Oregon local governments hold approximately 620 total active water quality permits.

Examples of local government entities include: water districts, irrigation districts, cities, towns, ports, sanitary districts, library districts, counties, and school districts. For the purpose of this fiscal analysis, DEQ considered ports and school districts as separate local governments even if contained within a city or county government.

Examples of the three percent fee increase on selected permit types include:

* Industrial NPDES fee permits for Tier 1 and 2 sources, dairies and fish hatcheries and facilities that dispose of wastewater only by evaporation from watertight ponds or basins, will increase between $79 and $134. This affects approximately eight local governments and their permit co-permittees (OAR 340-045-0075, Table 70B).
* Domestic NPDES and WPCF individual permit annual fee increases will range from $50 to $2,741. The $2,741 increase will affect one local government (OAR 340-045-0075, Table 70C).
* Annual fees for general NPDES and WPCF permits will increase between $8 and $32. This will affect an approximately 293 local government permits (OAR 340-045-0075, Table 70G).
* Annual permit processing fees for on-site systems and compliance determination fees for WPCF permits will increase between $1 for holding tanks to $33 for an on-site sewage lagoon with no discharge. This will affect approximately 67 local government permits (OAR 340-071-0140, Table 9D).

### Public

With existing data, DEQ cannot determine the extent to which the proposed fees would affect each consumer. DEQ anticipates some impact on the public if the permit holder increases costs of goods and services or fees charged to ratepayers to offset the fee increase. For example the case of municipal stormwater, the annual population fees in OAR 340-045-0075, Table 70D would increase less than $0.01 per-person, if applying the three percent increase.

### Large businesses - businesses with more than 50 employees

The three percent fee increase would affect approximately 150 wastewater permit holders that are large businesses. For example, large businesses that require an industrial NPDES Tier 1 permit would pay an additional $694 in annual fees for pulp, paper or other fiber pulping industry permits.

### Small businesses – businesses with 50 or fewer employees

According to 2018 data from the Oregon Employment Department, the fee increase may affect approximately 3,300 small businesses holding water quality permits. However, no information is available to determine how the fee increases would affect each permit holder. For example, if a small business is categorized as a Tier 2 facility for food or beverage processing, including produce, meat, poultry, seafood or dairy for human, pet or livestock consumption, then under OAR 340-045-0075, fee Table 70B, their annual permit fee would increase by an estimated $96 over the previous year’s annual fee.

#### a. Estimated number of small businesses and types of businesses and industries with small businesses subject to the proposed rule.

* DEQ estimates the fee increases for wastewater permits would affect approximately 3,300 small businesses.
* Examples of small businesses that have wastewater permits are food processors, mining operations, dairies, fish hatcheries, smelting and refining operations, timber processors, wood products manufacturers, retail operations, seafood processors, gravel mining, wineries, construction companies, petroleum hydrocarbon cleanup operations and vehicle and equipment wash water operations.

#### b. Projected reporting, recordkeeping, and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

No additional activities are required to comply with the proposed rules.

#### c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

No additional resources are required to comply with the proposed rules.

#### d. Describe how DEQ will involve small businesses in developing this proposed rule.

* DEQ met with a fiscal advisory committee on March 1, 2019. The committee was composed of a diverse group of stakeholders representing a wide cross section of DEQ’s permit holders.
* During and after the meeting, DEQ requested stakeholders’ input concerning potential impacts to small businesses and how DEQ can reduce that impact.
* During the public comment period, DEQ requested input on whether to consider other options for achieving the rules’ substantive goals, while reducing the rules’ negative economic impact on small businesses.

### Fiscal and economic impact supporting documents

| Document title | Document location |
| --- | --- |
| Fee increase calculations  | DEQ Headquarters  |
| DEQ 2017-2019 Legislatively Approved Budget  | DEQ Headquarters  |
| DEQ 2019-2021 Agency Request Budget | DEQ Headquarters |
| DEQ’s Water Quality Permit database  | DEQ Headquarters  |

|  |
| --- |
| 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.

### Relationship to federal requirements

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules are “in addition to federal requirements” because there are no applicable federal requirements.

|  |
| --- |
| 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.

### Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

* The statewide land-use planning goals specifically refer to the rule or program, or
* The rule or program is reasonably expected to have significant effects on:
* Resources, objectives or areas identified in the statewide planning goals, or
* Present or future land uses identified in acknowledged comprehensive plans.

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

|  |  |
| --- | --- |
| Goal | Title |
| 5 | Open Spaces, Scenic and Historic Areas, and Natural Resources |
| 6 | Air, Water and Land Resources Quality |
| 9 | Ocean Resources |
| 11 | Public Facilities and Services |
| 16 | Estuarial Resources |

Statewide goals also specifically reference the following DEQ programs:

* Nonpoint source discharge water quality program – Goal 16
* Water quality and sewage disposal systems – Goal 16
* Water quality permits and oil spill regulations – Goal 19

### Determination

DEQ determined that the following proposed rules affect programs or activities that the DEQ State Agency Coordination Program considers a land-use program.

OAR 340-018-0030(5)(c) and OAR 340-018-0030(5)(d)

DEQ’s statewide goal and local plan compatibility procedures adequately cover the proposed rules. Oregon Administrative Rule 340-018-0050(2)(a) ensures compatibility with acknowledged comprehensive plans through submission of a land-use compatibility statement.

|  |
| --- |
|  Advisory Committee |

### Background

DEQ convened a 2019 Fee Increase Rulemaking Fiscal Advisory Committee. The committee met once and included representatives from local governments, NPDES permit holders, environmental and citizen involvement organizations. Information about the committee can be found at [Water Quality Permit Fees 2019](https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rwqfees2019.aspx) web page.

The committee members were:

| **Affiliation** | **Name** | **Title** |
| --- | --- | --- |
| League of Women Voters | Peggy Lynch | Natural Resources Coordinator |
| Northwest Pulp and Paper | Kathryn Van Natta | Director of Government and Regulatory Affairs |
| Oregon Water Resource Congress | April Snell | Executive Director |
| Oregon Business and Industry | Sharla Moffett  | Director - Energy, Environment, Natural Resources and Infrastructure |
| Oregon Public Parks and Recreation | Scott Nebeker | Park Development Administrator  |
| Rogue Valley Sewer Services | Jennifer Morgan | Stormwater Program Manager |
| Special Districts Association of Oregon | Mark Landauer | Executive Director |
| City of Gresham | Torrey Lindbo | Watershed Science Manager |
| League of Oregon Cities | Tracy Rutten | Intergovernmental Relations Associate |
| Oregon Association of Clean Water Agencies | Susie Smith | Executive Director |
| Oregon Homebuilders Association  | Ellen Miller | Government Affairs Associate |

### Meeting notifications

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

* Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
* Rulemaking
* Water Quality Permits
* Added advisory committee announcements to [DEQ’s calendar](https://www.oregon.gov/deq/Get-Involved/Pages/Calendar.aspx) of public meetings
* Provided notice of meetings and links to committee information through postings on Facebook and Twitter.

### Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee found the following during its fiscal impact review:

* Recommendation: DEQ to notify permittees (larger entities) of the potential three percent increase prior to the EQC meeting, especially for permittees that are part of larger permit fees.
* Recommendation: DEQ to be as clear as possible about the fee increase in the fiscal and economic impact statement.

### EQC prior involvement

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

### Meeting notifications

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

* On February 22, 2019, sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
	+ Rulemaking
	+ Water quality permits
* Added advisory committee announcements to DEQ’s calendar of public meetings at [DEQ Calendar](http://oregon.gov/deq/Pages/Events.aspx)
* Provided notice of meetings and links to committee information through postings on Facebook and Twitter.

### Public Notice

DEQ provided notice of the proposed rulemaking on Monday, April 15, 2019, by:

* Filing notice with the Oregon Secretary of State for publication in the May 1, 2019, Oregon Bulletin;
* Posting the Notice and draft rules on the web page for this rulemaking, located at: [Water Quality Permit Fees 2019](https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rwqfees2019.aspx)
* Emailing 9,399 interested parties on the following DEQ lists through GovDelivery:
* Rulemaking
* Water Quality Permits
* Emailing the following key legislators required under ORS 183.335:
* Sen. Michael Dembrow, chair, Senate Committee on Environment and Natural Resources
* Sen. Alan Olsen, vice-chair, Senate Committee on Environment and Natural Resources
* Rep. Ken Helm, chair, House Committee on Energy and Environment
* Rep. Sheri Schouten, vice-chair, House Committee on Energy and Environment
* Rep. E. Werner Reschke, vice-chair, House Committee on Energy and Environment
* Emailing advisory committee members
* Posting on Twitter and Facebook
* Posting on the [DEQ Calendar](http://www.oregon.gov/deq/Get-Involved/Pages/Calendar.aspx)

### 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. No comments were received for this rulemaking.

|  |
| --- |
|  Public Hearings |

### Public hearings

DEQ held one public hearing. DEQ received 0 comments at the hearing.

### Presiding Officers’ Record

### Hearing 1

* Wednesday, May 15, 2019
* 9:30 a.m. (PDT)
* 700 NE Multnomah St.

Suite 600, Room 1110

Portland, OR 97232-4100

* Presiding officer: Michele Martin, DEQ. DEQ staff in attendance: Jennifer Wigal and Adam Coutu.

### Teleconference information

* Teleconference phone number: 888-363-4734
* Participant code: 1910322
* Teleconference instructions: [Instructions](https://www.oregon.gov/deq/Rulemaking%20Docs/participantlinklog.pdf)

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing.

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

|  |
| --- |
| Summary of Comments and DEQ Responses |

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

|  |
| --- |
| Commenters |

N/A

|  |
| --- |
| Implementation  |

### Notification

The proposed rules would become effective upon filing on approximately September 28, 2019. DEQ would notify affected parties by:

DEQ provided notice of the proposed rulemaking on Monday, April 15, 2019, by:

* Filing with the Oregon Secretary of State
* Posting the Notice at: [Water Quality Permit Fees 2019](https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rwqfees2019.aspx)
* Emailing 9,399 interested parties on the following DEQ lists through GovDelivery:
* Rulemaking
* Water Quality Permits
* Emailing the following key legislators required under ORS 183.335:
* Sen. Michael Dembrow, chair, Senate Committee on Environment and Natural Resources
* Sen. Alan Olsen, vice-chair, Senate Committee on Environment and Natural Resources
* Rep. Ken Helm, chair, House Committee on Energy and Environment
* Rep. Sheri Schouten, vice-chair, House Committee on Energy and Environment
* Rep. E. Werner Reschke, vice-chair, House Committee on Energy and Environment
* Emailing advisory committee members
* Posting on Twitter and Facebook

## Compliance and enforcement

* Affected parties – Water Quality permit holders
* DEQ staff – Water Quality staff by email.

|  |
| --- |
| Five-year Review ORS 183.405 |

### Requirement

Oregon law requires an agency to review new rules within five years after adoption. ORS 183.405. ORS 183.405(4) states that this requirement does not apply to the amendment of a rule. As a result, this requirement does not apply to this amendment of rules setting fees for National Pollutant Discharge Elimination System permits and Water Pollution Control Facility permits.

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

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

|  |
| --- |
| Supporting Documents |