

**Date:** May 18, 2023  
**To:** Environmental Quality Commission  
**From:** Leah Feldon, Director  
**Subject:** Item J: Delegation of certain Water Quality Fee Adjustments to Director

**Purpose of item** DEQ will propose delegating rule-adoption authority for the 2023 Water Quality fee rulemaking from the commission to the DEQ Director.

**DEQ recommendation and proposed EQC motion** DEQ recommends that the Oregon Environmental Quality Commission delegate the 2023 Water Quality Fee Increase rulemaking to the DEQ Director for a decision.

*Proposed EQC motion:*

*I move that the Oregon Environmental Quality Commission delegate the authority to adopt rules for the 2023 Water Quality Fee Increase Rule to Director Feldon.*

Delegating rulemaking authority to the DEQ Director for simple, routine actions allows the commission to focus on major policy issues. The rulemaking development process, including requirements for public engagement and comment opportunities, will remain the same, and the commission may rescind or modify its delegation through formal action at any time.

**Background** Under Oregon law, the Environmental Quality Commission holds the authorities for rulemaking and policy decision-making for DEQ. However, ORS 183.325 allows the commission to delegate some authorities, including rulemaking authority, to named employees of DEQ, if specific protocols are followed to formalize this written delegation.

The commission has delegated rulemaking elements before, including the full authority for rule decisions for the 2022 Water Quality Fee Increase and the 2022 Title V CPI Phase II Fee Increase.

In 2017, the EQC approved the delegation of statutory minor corrections to the DEQ Director, which was then sub-delegated to the DEQ Rules Coordinator. That delegation allows the coordinator to make typographical and grammatical corrections to rules, once they have been approved by the commission, and file those corrections with the Secretary of State. In 2018, the commission delegated advisory committee member appointment to the DEQ Director. That

delegation allows the DEQ Director to formally appoint rule advisory committee members, through the process established under the Oregon Administrative Procedures Act.

**2023 Water Quality Fee Increase rulemaking**

The purpose of this rulemaking is to update water quality permit fees for Chapter 340 of the Oregon Administrative Rules Divisions 045 and 071. These fees apply to National Pollutant Discharge Elimination System permits and Water Pollution Control Facility permits. Oregon state law allows an annual fee increase for the permit types in these divisions of up to three percent, or the projected increase in program costs, whichever is less.

DEQ has projected that program costs will rise by approximately 3.05 percent for fiscal year 2024, so the statutory maximum of three percent would apply. The proposed rule amendments are to increase water quality fees by three percent in 2023 for the state fiscal year 2024 (starting July 1, 2023), as provided in ORS 468B.051.

**EQC involvement**

DEQ intends to bring proposals for specific rulemaking authority delegations to the commission on an annual basis, in conjunction with the annual rulemaking plan information item. Director Feldon will provide formal notification to the commission when making rulemaking decisions under the delegated authorities.

**Non-discrimination statement**

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).

**Translation or other formats**

[Español](#) | [한국어](#) | [繁體中文](#) | [Русский](#) | [Tiếng Việt](#) | [العربية](#)

800-452-4011 | TTY: 711 | [deqinfo@deq.oregon.gov](mailto:deqinfo@deq.oregon.gov)