



Aquatic Life Toxics Criteria Rulemaking Advisory Committee Charter

Rulemaking Contact: Kaley Major

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Objectives and scope

This Rulemaking Advisory Committee’s purpose is to provide input to the Oregon Department of Environmental Quality on a proposed rulemaking to update Oregon’s aquatic life toxics criteria. The proposed criteria changes are based on EPA’s most recent aquatic life criteria recommendations which incorporate the latest science. The goal of this rulemaking advisory committee is to provide feedback on the fiscal and economic implications for stakeholders impacted by the proposed aquatic life criteria updates.

The committee fulfills the requirement in Oregon Revised Statutes 183.333 to obtain input from an advisory committee on the fiscal and economic impact of the proposed rule, as described in the “Policy objectives” section below. DEQ is not requesting the committee to make decisions or recommendations as a group. Neither does DEQ expect that the committee will reach consensus on their views or their input to DEQ.

Policy objectives

The objective of this rulemaking is to update Oregon’s water quality standards for toxic substances in Oregon Administrative Rule (OAR) 340-041-0033 and OAR 340-041-8033 (Table 30, Aquatic Life Water Quality Criteria for Toxic Pollutants). DEQ is proposing to add new criteria for acrolein, aluminum, carbaryl, and diazinon, and update the state’s aquatic life criteria for cadmium and tributyltin.

EPA periodically releases national recommendations for aquatic life criteria that States and Tribes may use to develop water quality standards. These recommendations are based on the latest science and are designed to protect most of the aquatic community from short and/or long term negative chemical effects. Once EPA releases criteria recommendations for a chemical, states must either adopt criteria for that chemical or report a justification for not doing so.

Oregon’s aquatic life criteria were last comprehensively reviewed and updated in 2004. As part of DEQ’s 2021 Water Quality Standards Triennial Review, DEQ committed to reviewing several of EPA’s new or updated aquatic life criteria recommendations and considering them for adoption. DEQ also decided to compare all of EPA’s current aquatic life criteria recommendations with the state’s criteria to keep Oregon’s criteria up-to-date with EPA’s most recent recommendations and the latest science.

As a result of this comprehensive review, DEQ is proposing to adopt EPA’s most up-to-date aquatic life criteria recommendations for six chemicals (listed above). Adding or updating these criteria in Oregon’s water quality standards will provide increased protection for Oregon waters that support fish and aquatic life uses. These numeric criteria values will be used in DEQ’s water quality programs (Assessment, Permitting, TMDL, etc.) to determine waterbody impairment, pollution control measures, or permit limits.

Fiscal, economic and racial equity impacts

ORS 183.333 requires that DEQ ask the committee to consider the fiscal and economic impact of the proposed rules including:

- Whether the rules will have a fiscal impact, and if so, what the extent of that impact will be.
- Whether the rules will have a significant adverse impact on small businesses, and if so, how DEQ can reduce the rules’ negative fiscal impact on small businesses.

ORS 183.333 (a)(F) requires agencies to provide a statement identifying how adoption of the rule(s) will affect racial equity in Oregon. To aide in crafting this statement DEQ will ask the committee to provide input on this question.

Roles

DEQ facilitator

The facilitator:

- Encourages open, candid and robust dialogue;
- Starts and ends the meetings and agenda items on time;
- Encourages innovation by listening to all ideas;
- Tries not to lose good ideas to the consensus process; and
- Recognizes when the discussion is outside the scope of the meeting and steers the discussion back to the focus of the meeting.

Committee members

Advisory committee members must attend each meeting to ensure continuity throughout the process. An alternate may be assigned if needed. However, it is each committee member's responsibility to fully brief their alternate on all relevant issues and prior committee discussions in order to meet the meeting objectives and keep the project on schedule. The primary and alternate members of the committee cannot participate in the same meeting. If a member's absence is unavoidable, please notify the DEQ project manager.

The committee member:

- Prepares for and sets aside time for the meetings;
- Provides DEQ staff with copies of relevant research and documentation cited during the meeting;
- Stays focused on the specific agenda topics for each meeting;
- Comments constructively and in good faith;
- Consults regularly with constituencies to inform them on the process and gather their input;
- Treats everyone and his or her opinions with respect;
- Allows one person to speak at a time;
- Is courteous by not engaging in sidebar discussions; and
- Avoids representing to the public or media the views of any other committee member or the committee as a whole.

Non-committee member attendees

Those who attend the committee meetings, but are not members of the committee are there only to observe and not to actively participate. If non-committee members are present at a meeting, DEQ may allow time during the meeting for their comments.

DEQ staff

DEQ is committed to making the most effective use of committee member's time by:

- Establishing clear committee goals, meeting objectives and agendas;
- Giving committee members reasonable access to staff;
- Encouraging all members to take part in discussions; and
- Providing a clear description of members' roles, the committee timeline, the level of agreement expected and feedback on how members' input is used.

When DEQ shares information with the group, DEQ will allow a reasonable timeframe for comments.

DEQ support and website

DEQ will post agenda and meeting materials on the advisory committee website at least one week in advance. DEQ administrative staff will provide meeting summaries that highlight committee discussions, different perspectives and input of committee members. DEQ will not prepare a formal committee report. DEQ will send draft meeting summaries to the advisory committee for review and input. Final meeting minutes will be posted to the advisory committee website and will be part of the public record.

The advisory committee charter, a full roster of the committee, meeting agendas and minutes, and background materials will all be located on the advisory committee webpage: [Aquatic Life Toxics Criteria 2024](#).

Committee meetings

1. All committee meetings will be:
 - open to the public, although the committee can choose whether the public can actively participate in committee meetings
 - advertised on DEQ's webpage calendar two weeks before the meeting at: [DEQ Event Calendar](#)
 - [noticed by email](#) to the Water Quality Standards GovDelivery list
 - noticed on DEQ's Facebook/Twitter account
 - held via virtual meeting
 - accessible via a call-in number or webinar
2. DEQ will draft a meeting summary to record the questions, concerns and input of members as well as any follow up actions. RAC members will have an opportunity to review and comment on the meeting summaries for accuracy.

The committee is expected to meet two times between September November 2023 by virtual meeting or webinar. If a third meeting is needed it will be held in fall 2023. The meeting duration times may vary depending on topics and committee progress.

Decision making

The RAC is not being asked to make decisions or unanimous recommendations. The committee’s discussions will provide input that will be used by DEQ in forming its draft rule. The draft rule will then be proposed for broader public review and formal comment as part of DEQ’s rulemaking process. Committee members may also comment during the formal comment process.

Membership

In convening this committee, DEQ selected members that reflect the range of stakeholders the proposed rules affect, both directly and indirectly. Representatives should be able to consider the policy, fiscal and economic impact of the proposed standard on the business or organization they represent.

Advisory Committee Membership	
Committee Members	
Name	Affiliation
Emily Bowes	Rogue Riverkeeper
Michael Campbell	Stoel Rives LLP
Catherine Corbett	Lower Columbia River Estuary Partnership
Mike Eliason	Oregon Forest & Industries Council (OFIC)
Raj Kapur Alternate: Julia Crown	Oregon Association of Clean Water Agencies (OR-ACWA)
Hannah LaGassey Alternate: Marnie Keller	Cow Creek Band of the Umpqua Tribe of Indians
Sharla Moffett	Oregon Business & Industry
Lauren Poor	Oregon Farm Bureau
Glen Spain	Pacific Coast Federation of Fishermen’s Associations (PCFFA)
Government Advisors	
Becky Anthony	Oregon Department of Fish and Wildlife
Jeremy Buck	U.S. Fish and Wildlife Service
Cory Engel	Oregon Department of Transportation
Michelle Maier	U.S. Environmental Protection Agency
Rebecca McCoun	Oregon Department of Forestry
Kathryn Rifenburg Alternate: Gilbert Uribe	Oregon Department of Agriculture
Greg Sieglitz	NOAA – National Marine Fisheries Service

Travel expenses

DEQ is able to reimburse any in state, out-of-town committee members for travel expenses, if DEQ approves them in advance.

Public records and confidentiality

Committee communications and records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records and are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings. However, the private documents of individual committee members generally are not considered public records if DEQ does not have copies.

Information exchange

Committee members will provide information as much in advance as possible of the meeting at which such information is used. The members will also share all relevant information with each other to the maximum extent possible. If a member believes the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it.

Public involvement

All meetings will be open to the public. The committee can choose whether to allow public input during a committee meeting. DEQ may set aside time for the public to speak.

Once the committee process is complete, DEQ will develop draft rules and conduct a public rulemaking process. That process will include a specified period during which the public can submit comments on the proposed rules. DEQ will also hold a public hearing during which any member of the public can submit written or verbal comments. Individual committee members may provide comments to DEQ on the full draft rule at this time. DEQ may modify the final proposed rules based on public comment. DEQ intends to take a final proposed rule to the EQC for consideration at its meeting.

DEQ contacts

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