

Meeting Summary

PFAS 2025 Advisory Committee Meeting 1

Nov. 19, 2024



Meeting attendees

Committee members in attendees (for all or part of meeting):

- Negonnekodoqua Blair, Confederated Tribes of the Umatilla Indian Reservation
- Macon Carroll, Oregon State University (alternate)
- Anzie St Clair, Port of Portland
- Jim Denson, Waste Management
- Jamie DeWitt, Oregon State University
- Heather Gosack, WSP
- Jeremy Haney, Oregon Military Department
- Jeff Hunter, Perkins Coie, on behalf of Oregon Business and Industry
- Michael Karnosh, Confederated Tribes of Grand Ronde
- Johnny Leavy, City of Medford Public Works Water Reclamation Division and Association of Clean Water Agencies
- Karen Lewotsky, Oregon Environmental Council
- Jamie Porter, Rainbow Water District
- Rose Poton, Verde
- Teryn Yazdani, Columbia Riverkeeper

DEQ team members in attendees:

- Franziska Landes, Senior Environmental Scientist and Hydrogeologist
- Sarah Van Glubt, Project Manager
- Dan Hafley, Project Manager and Hydrogeologist
- Annie Rohlf, Public Affairs Specialist
- Cade Anslem, Administrative Specialist

Public attendees (for all or part of meeting): 54 other attendees were present

Welcome, agenda overview, rulemaking orientation

Franziska Landes welcomed everyone to the meeting, reviewed the agenda, and shared ground rules. The Oregon Department of Environmental Quality (DEQ) team members introduced themselves, followed by introductions by the rulemaking advisory committee (RAC) members. Franziska provided a rulemaking orientation, including an overview of the rule development process, timeline for the PFAS 2025 rulemaking, an overview of the charter, and the role of the RAC.

PFAS background

Sarah Van Glubt provided background information on PFAS, including what PFAS are, how they have been used, concerns about PFAS in the environment, and actions to address PFAS around the country.

Translations or other formats

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

Contact: 800-452-4011 | TTY: 711 | deqinfo@deq.state.or.us

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

Rule concept discussion

Sarah Van Glubt provided information on the proposed rulemaking, including proposed rule updates, an overview of DEQ's Cleanup Program, regulatory background, and rule impacts. DEQ proposes to update OAR 340-122-0115 section (30). No language changes to the rule are proposed. Instead, by updating the date of this rule, DEQ will readopt the U.S. Environmental Protection Agency's (EPA) list of hazardous substances, including two per- and polyfluoroalkyl substances (PFAS): perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS). This will allow DEQ to remain consistent with the EPA. The other compounds that have also been added or removed from the EPA's list of hazardous substances will be included in DEQ's rule. However, DEQ anticipates that the most substantive impact of these changes will be from adding PFOA and PFOS.

Annie Rohlf facilitated the discussion with the following questions:

- How might you or the communities and parties you represent be positively or adversely impacted by this rulemaking?
- Who might be most impacted by this rulemaking?
- What other data or information should DEQ consider?

The following describes feedback received by topic and may not match the order of discussion during the meeting.

Discussion topic: rule scope

A RAC member asked why DEQ is proposing to add only PFOA and PFOS as hazardous substances, and not more compounds, such as the six PFAS with drinking water Maximum Contaminant Levels. RAC members noted that other states have regulated ahead of the EPA, one compound's presence typically indicates the presence of others, and that adding these as hazardous substances is important to safeguard the public, though must be done with discretion.

DEQ stated that the proposed scope of the rulemaking is consistent with the EPA, though DEQ could list additional compounds. PFOA and PFOS are known to be problematic in the environment through research on their presence, mobility, and toxicity, but there are other PFAS compounds with similar research. DEQ asked the RAC for input on the rulemaking scope.

A RAC member advised DEQ not to include more compounds, as they do not believe DEQ has done sufficient research. They noted that the EPA's federal listing of PFOS/PFOA is being challenged and could be impacted by the coming administration change. They are concerned about complications if Oregon and federal regulations do not match, for example at Superfund sites. They did not believe DEQ shouldn't update its rules, but suggested language be included so changes to the federal rule would apply to Oregon's.

A RAC member discussed that the PFAS regulatory landscape is changing rapidly, and listing more compounds later may result in the need to re-characterize sites, which would be costly and result in delays. Other RAC members emphasized the possibility of federal administrative rollbacks and the need for regulatory clarity and stability.

DEQ asked whether it would be preferable to alternatively add a line item to Oregon's rule for PFOS/PFOA in case EPA changes their rules to avoid confusion, similar to how methane was added to Oregon's rule in 2006.

A RAC member stated that at a meeting concerning PFAS use and importation restrictions under consideration in the European Union, many industry representatives indicated regulation can facilitate innovation; this rulemaking may lead to innovative approaches to cleanup, remediation, and development of alternatives.

Discussion topic: source identification, investigations, and funding

RAC members stated the importance of source control. A RAC member noted source control work in Washington as a good example, and voiced concern about PFAS in consumer products and groceries.

RAC members discussed that various historical PFAS sources exist and noted the importance, and sometimes difficulty, of source identification. RAC members asked if monitoring data has been considered to address source identification, if DEQ anticipates conducting more testing and analysis, if there are sites and potential sources that this rulemaking could help discover, and if site discovery could open new funding sources.

DEQ stated that source identification is a core concern and that completing this rulemaking would aid these efforts. DEQ is making efforts to track sites with a high level of concern, such as facilities that have used PFAS-containing firefighting foams. However, without the ability to require PFAS data, DEQ cannot determine if these probable sources have had releases. DEQ stated that some limited grant funding is available but is not aware of funding sources for large-scale investigations for source identification, as the Cleanup Program is mostly polluter-pays cost recoverable. However, DEQ noted the rulemaking may help open funding sources.

A RAC member added that rulemaking could support more data collection by private parties, as they have a significant number of clients who will not do work or collect data in the state until there is regulatory clarity. Another RAC member stated that analytic techniques are improving so it may be possible to identify source types or releases with analytical data (i.e., fingerprinting).

RAC members expressed concern that while the EPA analytical Method 1633 test includes ~40 PFAS chemicals, compounds beyond PFOA/PFOS may not be tested if the rule only includes these two compounds. DEQ responded that while the analytical method would test for 40+ chemical, parties may withhold reporting of compounds not listed in the rule.

RAC members voiced concerns about how liability is defined when areas have concentrations above background levels and when background levels exceed screening or cleanup levels. DEQ responded that some PFAS screening levels for soil are significantly higher than for groundwater. DEQ considers how properties affect others as well as the occupational exposure risks at those sites. A RAC member said having a defined set of cleanup criteria is important for ports, municipalities with fire training, and more.

A RAC member stated concern about treatment materials entering the pollution chain when they are disposed and another RAC member noted the capacity of landfills to receive materials should be considered. They asked if there will be risk assessments and pilot studies. DEQ stated awareness of the difficulties with waste management, including the expense and burden. DEQ meets frequently with EPA Region 10 and Department of Defense, who have facilities across the country with contaminated soil.

A RAC member stated that military departments are moving to categorize sites with known releases to meet DOD standards and regulations.

Discussion topic: enforcement, exemptions, and liability

Some RAC members expressed concern that this rulemaking could re-open closed sites with No Further Action (NFA) determinations and recommended DEQ limit actions to new releases. A RAC member stated that from a human health perspective, if a site has a high likelihood of impacting receptors, DEQ should consider re-opening. DEQ responded that its NFAs already have a new information clause that allows re-opening of sites, but generally has a disinclination to do so. That said, DEQ would consider re-opening sites if there was a compelling reason and significant risk to public health or the environment. DEQ is open to input on how to improve this process.

Some RAC members suggested DEQ exempt certain parties from enforcement of this rulemaking and create protections for these parties from third-party lawsuits, such as airports, water treatment facilities, utilities,

governments, water treatment facilities, landfills, and other passive receivers. A RAC member noted that an enforcement guidance document alone would not be sufficient to protect from third-party lawsuits. A RAC member suggested enforcement discretion or exemptions could be phased out over time, giving public parties a grace period of protection from third-party lawsuits, and another RAC member suggested this could be supported by parallel prohibitions on industrial use. A RAC member noted that citizen suits are community health and accountability measures.

Concerns were noted related to costs, including those that may be passed onto ratepayers at passive receiver sites. DEQ stated that as far as they know, there are no wastewater treatment facilities in the Cleanup Program, and that Cleanup rarely requires work on permitted landfill sites; these facilities are permitted by other DEQ programs. Cleanup's priority is looking at PFAS uses and releases affecting public health but would only require investigations when historical activities are associated with the chemicals. Permitting programs may make their own requirements, but those are separate from this rulemaking process.

A RAC member stated that they are concerned that parties further ahead in investigations may take on liability for other potential contributors. A RAC member noted the difference between parties that manufacture versus use PFAS-containing products. Another RAC member noted that some airports were required to use PFAS products.

Discussion topic: disproportionately impacted populations and communities

A RAC member asked how the rulemaking is meant to protect communities concerned about PFAS-related health risks, particularly tribal communities heavily impacted by fish (and fish consumption advisories). They stated it was premature to talk about industry exemptions when the rulemaking seemed to be focused on gathering information on PFAS sources and prevalence. They asked how this rulemaking would help the public get more information about health risks, or if it would just give the ability to put out further fish advisories.

Another RAC member echoed these concerns. The group they represent does not consider fish consumption advisories to be an acceptable resolution to the problem of toxic contamination. Tribal populations are one of the most vulnerable populations to waterway contamination, including high rates of fish consumption, emphasizing how heavily these regulations affect them. In protecting the most vulnerable populations, the rest of the population and public at large is also protected. They also emphasized that source control is the most effective way to take materials out of the system, and that this rulemaking would help that.

DEQ stated that at its core, this rulemaking is asking for the ability to regulate these compounds as we do with other hazardous substances. Without this rulemaking DEQ does not have enforcement capabilities on parties potentially responsible for PFAS releases, including cases of detections in municipal water supplies or fish. DEQ's job is to protect human health and environment and wants to achieve that without overreaching or being unfair.

Public input period

Oregon Department of Transportation Hazardous Materials Program representative: As a representative of a public agency who deals with cleanup, solid waste, and permits, words like "discretion" make them uneasy, though they appreciate Cleanup's need for flexibility. Every state highway has contaminated sites adjacent to them, and they spend a lot of time and money categorizing them. Between beneficial use determinations, managing excess soil, and whether DEQ will add PFAS requirements in permits, contamination can quickly become difficult and complicated to manage.