

Date: Dec. 31, 2024
To: Environmental Quality Commission
From: Leah Feldon, Director
Subject: Agenda item J, Action item: Rulemaking authority delegation
Jan. 9-10, 2025, EQC meeting

Purpose of item DEQ will propose delegation of specific rulemaking authorities from the commission to the DEQ director.

DEQ recommendation and proposed EQC motion DEQ recommends the Oregon Environmental Quality Commission delegate two 2025 rulemakings (described in attachment A to agenda item J) to DEQ Director Leah Feldon for a final decision.

Proposed EQC motion: *I move that the Environmental Quality Commission delegate the following 2025 rulemakings (described in attachment A to agenda item J) to DEQ Director Leah Feldon for a decision:*

- *Air Quality Fees 2025*
- *Water Quality Fees 2025*

Background Under ORS 468.015 and .020, the Environmental Quality Commission holds the authorities for rulemaking and policy decision-making for the Department of Environmental Quality. 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.

In previous years, the commission has delegated final rulemaking authority to the director for specific rulemakings. Delegating a final decision to the director streamlines the approval process for actions that are largely procedural in nature. This saves valuable commission time for more substantive rule and policy issues.

Delegation of a final decision does not impact the other stages of rulemaking, and DEQ must adhere to all elements of Oregon's administrative procedure requirements (ORS Chapter 183), such as providing public notice of proposed rules, providing for public comment, responding to public comment, and evaluating fiscal impacts of proposed rules.

When evaluating rulemakings for potential delegation, DEQ prioritized rulemakings that are administrative or procedural, rulemakings that implement explicit legislative direction, and permanently adopting rules for which the commission has already adopted temporarily.

2025 rulemakings proposed for director delegation Specific information about each of the rulemakings DEQ proposes to delegate final approval to Director Leah Feldon are detailed below. Additional information for each rulemaking is available in DEQ’s Rulemaking Plan, Attachment A.

Air Quality Fees 2025

The Air Quality program needs to increase fees, as provided in ORS 468A.315, 468A.345 and 468A.750, to maintain current service levels. Per statute, the amount of the increase may not exceed the anticipated increase in the cost of administering the program or 3%, whichever is lower. Programs included in this fee increase include:

- Title V
- Cleaner Air Oregon
- Asbestos

This rulemaking implements increases already authorized by the legislature for the agency’s 2023-2025 biennial budget. The rulemaking does not include any proposed fees under consideration during the 2025 legislative session.

Water Quality Fees 2025

The Water Quality program needs to increase fees, as provided in ORS 468B.051, to maintain current service levels. Per statute, the amount of the increase may not exceed the anticipated increase in the cost of administering the program or 3%, whichever is lower. Programs included in this fee increase include:

- National Pollution Discharge Elimination System Permits
- Water Pollution Control Facility Permits (including stormwater)
- Onsite Septic
- Wastewater Operator Certification
- Underground Injection Control
- 401 Water Quality Certification

This rulemaking implements increases already authorized by the legislature for the agency’s 2023-2025 biennial budget. The rulemaking does not include any proposed fees under consideration during the 2025 legislative session.

Attachments A. DEQ Rulemaking Plan

*Report prepared by
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