


State of Oregon
Department of Environmental Quality

Memorandum

Date: July 24, 2015

To: Environmental Quality Commission

From: Dick Pedersen, Director 

Subject: Agenda item G, Action item: Delegating limited rulemaking authority to Director Dick Pedersen

Why this is important DEQ currently has no expedited rulemaking procedure available to correct non-substantive errors in its rules.

Background DEQ's rules contain errors, such as spelling, grammar, or inaccurate references to rules and statutes. Currently, the only way to correct these errors is through a full rulemaking proceeding which requires EQC to vote on the proposed rule changes. Because of limited rulemaking resources and the commission's limited time, these errors often are not corrected.

DEQ rules may also contain inaccuracies which result when an agency, or a program, office, or division within the agency named in a rule, changes its name. DEQ currently has no expedited process through which to address these name changes.

Oregon Revised Statute 183.335(7) authorizes agencies to correct the types of non-substantive errors described above by amending the rules without prior notice or a hearing. ORS 183.325 authorizes agencies to delegate rulemaking authority to an agency employee.

Authorizing Director Pedersen to carry out cleanup rulemakings to correct such errors will enable DEQ to make its rules more clear and accurate while minimizing the resources required to do so.

DEQ recommendation and EQC motion DEQ recommends that EQC delegate to Dick Pedersen, DEQ director, the authority to adopt rules of the nature described in ORS 183.335(7) and authorize the EQC chair to sign the delegation form, provided as attachment A to this memorandum, on behalf of the commission.

Attachments A. Secretary of State delegation form
B. Excerpt from ORS 183.335

Report prepared by Meyer Goldstein, Agency Rules Coordinator

Secretary of State
DELEGATION OF RULEMAKING AUTHORITY

183.325 Delegation of rulemaking authority to named officer or employee. Unless otherwise provided by law, an agency may delegate its rulemaking authority to an officer or employee within the agency. A delegation of authority under this section must be made in writing and filed with the Secretary of State before the filing of any rule adopted pursuant to the delegation. A delegation under this section may be made only to one or more named individuals. The delegation of authority shall reflect the name of the authorized individual or individuals, and be signed in acknowledgment by the named individuals. Any officer or employee to whom rulemaking authority is delegated under this section is an "agency" for the purposes of the rulemaking requirements of this chapter.

Environmental Quality Commission

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Agency and Division

Administrative Rules Chapter Number

Hereby Delegates to

Dick Pedersen

503-229-5300

Name

Telephone

811 SW 6th Ave., Portland, OR 97204

Address

☐ general rulemaking authority

☒ limited rulemaking authority in the following area(s):

To authorize and file rulemakings under ORS 183.335(7).

Effective Date

Signature of Authorized Signer delegating signing authority & Date

Printed name of Authorized Signer delegating signing authority

ACKNOWLEDGEMENT OF DELEGATION

Signature of person receiving Delegation of Rulemaking Authority & Date

*** Removal of previously delegated signers (optional).** It is acceptable for an agency to maintain several active Delegation of Rulemaking Authority forms on file with the Administrative Rules Unit. However, if the agency wishes to discontinue Delegated Authority to any previously delegated individuals, it may do so by printing the appropriate name or names on the following line:

Delegation of Rulemaking Authority forms must be filed with the Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

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183.335 Notice; content; public comment; temporary rule adoption, amendment or suspension; substantial compliance required.

(7) Notwithstanding subsections (1) to (4) of this section, an agency may amend a rule without prior notice or hearing if the amendment is solely for the purpose of:

- (a) Changing the name of an agency by reason of a name change prescribed by law;
- (b) Changing the name of a program, office or division within an agency as long as the change in name does not have a substantive effect on the functions of the program, office or division;
- (c) Correcting spelling;
- (d) Correcting grammatical mistakes in a manner that does not alter the scope, application or meaning of the rule;
- (e) Correcting statutory or rule references; or
- (f) Correcting addresses or telephone numbers referred to in the rules.