

**ENVIRONMENTAL QUALITY COMMISSION
STATE OF OREGON**

Regarding Petition)	Order Denying Petition for
For Rulemaking of La Pine-area)	Rulemaking
Residents and Signatories)	

Recitals

1. On Oct. 26, 2012, Ellen Currie presented a petition to the Oregon Environmental Quality Commission. The petition was filed pursuant to ORS 183.390, OAR 137-001-0070 and OAR 340-011-0046 on behalf of approximately 430 signatories.

2. The petition seeks amendments to OAR 340-071-0130, as seen below. The proposed amendment language is indicated, below, as ***bold and italic***.

(1) Protection of public waters from public health hazards. An agent may not authorize installation or use of a system that is likely to pollute public waters or create a public health hazard. If, in the judgment of the agent, the minimum standards in this division will not adequately protect public waters or public health on a particular site, the agent must require a system to meet requirements that are protective. This may include but is not limited to increasing setbacks, increasing drainfield sizing, or using an alternative system. The agent must provide the applicant with a written statement of the specific reasons why more stringent requirements are necessary.

(a) If the agent requires an alternative treatment technology (ATT) onsite waste treatment system, the agent must:

(i) demonstrate that requiring an ATT system, when a standard system is designed for the same application, does not exceed the cost of a standard system, meeting minimum standards, by no more than 10%, and

(ii) that the requirement does not harm small businesses.

(b) A properly approved and permitted standard subsurface onsite waste treatment system is not considered a source of pollution unless the agent can demonstrate by well test data,

(i) taken a minimum of 100 feet setback from septic drain fields or septic tanks

(ii) that there is a pattern demonstrating chemical or organic pollutants equal or greater than the maximum allowable levels as established by the United State Environmental Protection Agency for public drinking water.

(c) Nothing in this rule shall prevent repairs to a previously approved and permitted onsite subsurface waste treatment system unless the landowner has altered the property in such a way that the original permitted system is no longer appropriate.

3. In response to the petition, the Oregon Department of Environmental Quality, on behalf of the commission, invited public comment on the petition beginning Nov. 28, 2012, and held three public hearings during a comment period that ended Dec. 14, 2012. During that time, DEQ received comments verbally and in writing from approximately 41 individuals and organizations.
4. During a special meeting held Jan. 22, 2013, the commission considered presentations from three people serving as representatives of the petitioners. The commission also considered a report and comments from DEQ staff.
5. With respect to the proposed rule amendments, the commission considerations included the following issues as applicable:
 - a) Options for achieving the existing rule's substantive goals while reducing the negative economic impact on businesses;
 - b) The continued need for the existing rule;
 - c) The complexity of the existing rule;
 - d) The extent to which the existing rule overlaps, duplicates, or conflicts with other state or federal rules and with local government regulations; and
 - e) The degree to which technology, economic conditions, or other factors have changed in the subject area affected by the existing rule, since the agency adopted the rule.

Order

The petition for rulemaking is denied.

DEQ Onsite Wastewater Treatment System program staff are directed to:

1. Continue working with the current South Deschutes and Northern Klamath Counties Groundwater Protection Project Steering Committee to finalize its recommendations to DEQ.
2. Evaluate the feasibility of a Geographic Area of Special Consideration as authorized by ORS 454.615(1) for a specific area of concern in and near La Pine, and report back to the commission.

Dated this 23 day of January, 2013.

A handwritten signature in black ink, appearing to read 'William Blosser', is written over a horizontal line.

William Blosser, Chair
On behalf of the
Oregon Environmental Quality Commission