

2013 DEQ Rulemaking Plan

The Department of Environmental Quality has approved this 2013 DEQ Rulemaking Plan. The plan includes 26 rule proposals that DEQ may potentially work on in the upcoming year. DEQ carried forward five proposals from earlier plans and added 21 new proposals.

<u>Content</u>	<u>Page</u>
Estimated 2013 rulemaking schedules	2
Proposed rules descriptions	4

Estimated 2013 Rulemaking Schedules

Cross Program

Division 12 Updates - carry forward

Division 18 Updates - WQ lead

Land Quality

Conversion Technology - carry forward

Federal Rules Adoption and RCRA

Water Quality

Turbidity Standards - carry forward

Aquatic Life Toxics

Major Modification Fee

Permit Fee Increase

Clean Water SRF

Underground Injection Control Fee

WPCF 600 Permit Fee

Temperature Standards

2013				2014				2015
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1

<S AC	N		EQC EFF					
S AC		N	EQC	EFF				

<S,AC,N EQC	EFF							
<S N EQC	EFF	AC						

<S AC		N	EFF ¹					
	S AC	AC	AC	N		EQC	EFF ¹	
<S AC N	EQC	EFF						
<S AC N	EQC EFF							
		S AC	AC	N	EQC EFF			
S AC	AC	AC	AC	AC		N		EQC EFF
S	AC	AC N	N EQC	EFF				
S	AC	AC	AC	AC		N	EQC/EFF ¹	

¹ Rules under this proposal require EPA approval to become effective. The effective date is unknowable and may be measured in years.

LEGEND

S = Start

AC = Advisory Committee, **AC** = No Advisory Committee

N = Notice, **N** = No Notice

EFF = Effective date

Legislative session

Estimated 2013 Rulemaking Schedules

2013				2014				2015
Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1

Air Quality

Permitting Program Updates - carry forward

Federal Regulations - carry forward

Air Contaminant Discharge Fee - temporary

Clean Fuels Fee

Greenhouse Gas Reporting²

Infrastructure SIP - NO₂, SO₂ & Lead

Federal Regulations²

Oregon Low Emission Vehicle

Update Regional Haze Plan

Smoke Management Program³

<S AC		N	EQC EFF					
<S,N EQC	EFF							
S			EQC EFF	N AC				
		S AC	N	EQC EFF				
	S	N	EQC EFF	AC				
S		N	EQC	EFF	AC			
S	-	N		EQC EFF	AC			
S AC	AC	N	EQC EFF					
S	-	N	EQC	EFF	AC			
S	-	N	EQC	EFF				

Joint DEQ - Lane Regional Air Pollution Authority⁴

PM_{2.5} and GHG

Industrial Permitting Programs 2008

Open Burning 2008

Industrial Permitting Programs 2010

<S <N	N EQC EFF							
<S N	N EQC EFF							
S N	EQC	EFF						
S	EQC EFF							

² Schedules may shift.

³ ODF is responsible for Advisory Committee.

⁴ LRAPA Responsible for public process.

LEGEND

S = Start

AC = Advisory Committee, ~~AC~~ = No Advisory Committee

N = Notice, ~~N~~ = No Notice

EFF = Effective date

Legislative session

Proposed Rules Descriptions

Cross Program

Division 12 Updates - carry forward from 2012

The proposed Division 12 rules would align civil penalties with DEQ's current statutory authority and update violation classifications and magnitudes with current program priorities.

Division 18 Updates – Water Quality Division lead

The purpose of this rulemaking is to revise Division 18 to simplify and streamline permit issuance. Under Division 18 all permit applicants must submit a Land Use Compatibility Statement (LUCS) with their permit applications. In some cases, this requirement is burdensome and irrelevant. DEQ wishes to revise Division 18 to define exceptions to this requirement.

Land Quality Division

Conversion Technology - carry forward from 2012

The proposed rules establish a new class of solid waste disposal site called "conversion technology facilities," and application and annual compliance fees for these facilities. Previously these facilities were regulated as solid waste treatment facilities, which have higher application and annual compliance fees. The rules also create exemption criteria from permitting requirements for many conversion technology facilities. The proposal also reclassifies anaerobic digestion facilities as being composting facilities instead of solid waste treatment facilities, also resulting in reduced permit application and annual compliance fees.

Federal Rules Adoption and Resource Conservation and Recovery Act Reauthorization

This rulemaking involves two federally-mandated rules to ensure that DEQ's Hazardous Waste Program receives Resource Conservation and Recovery Act reauthorization. The first mandatory rule is part of the new federal "Definition of Solid Waste" that would allow for more beneficial materials management of what would otherwise be hazardous waste. The second mandatory rule implements changes to agreements concerning transboundary movement of hazardous waste among countries belonging to the Organization of Economic Co-operation and Development, establishes notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country, and specifies exception reporting requirements. This rulemaking also includes 12 non-mandatory rules involving clarifications, specifications and restrictions to align the agency with EPA rules that will create greater efficiency and certainty for businesses implementing the rules.

Water Quality Division

Turbidity Standards - carry forward from 2012

The proposed rules would revise Oregon water quality standards for turbidity to ensure that the revised standards protect aquatic life and other beneficial uses and are implementable throughout all of Oregon's water quality programs. DEQ is reviewing this standard as part of the periodic review of water quality standards required under the Clean Water Act. Oregon's current turbidity standard is difficult to implement and is not connected to effects of turbidity on beneficial uses. DEQ has reviewed the science related to how the criteria protect aquatic life and other beneficial uses and, using this information, has begun to draft rule language that takes into account how Oregon would apply the standards. Rule language is being vetted through a workgroup of stakeholders, who have been providing comments and suggestions.

Aquatic Life Toxics

DEQ anticipates revising several aquatic life criteria in response to EPA's forthcoming action on OR's aquatic life criteria submitted in 2004, including several new pesticide criteria to align with EPA national recommended criteria. For several criteria, DEQ will assess whether or not EPA should be the lead agency in developing Oregon criteria based on reasonable and prudent measures described in the recent National Marine Fisheries Service biological opinion of Oregon's 2004 aquatic life criteria. This rulemaking will also correct typographical and other errors related to both the aquatic life and human health criteria. This rulemaking may be split into two phases--one for typographical type of corrections and the other for more substantive revisions.

Major Modification Fee

Create major modification fees for municipal stormwater phase 1 and underground injection control permits. Currently, major modification fees do not exist for MS4 phase 1 and underground injection control permits. The major modification fees are proposed in an effort to recover costs associated with future major modification requests. DEQ is proposing major modification fees of \$8,746 for MS4 phase 1 permits and \$4,971 for underground injection control permits.

Permit Fee Increase

The 2005 Oregon Legislature adopted a recommendation that authorizes EQC to raise fees annually in an amount not to exceed the anticipated increase in the cost of administering the permit program or three percent, whichever is lower. This rulemaking will increase water quality permit fees by up-to-three percent. Permit fees will increase for most water quality permits. Fee increases were adopted by the EQC in 2007 (three percent), 2008 (three percent), 2010 (three percent), 2011 (two percent) and proposed for 2012 (2.7 percent.)

Clean Water State Revolving Fund

The Clean Water State Revolving Fund loan program may need to address potential federal or state regulation changes in Oregon's rules. The water quality program anticipates submitting a legislative concept that if approved will extend the maximum length of loan terms for these loans. Other federal or state regulations may also be addressed with this rulemaking.

Underground Injection Control Fee

This rulemaking would amend Underground Injection Control rules in OAR 340-044 and the groundwater quality protection rules in OAR 340-040 that intersect with UIC rules to: reflect changes in Oregon statute that specifically address program fees; expand on types of underground injection control system use not specifically addressed in rules; align with other DEQ programs and state agencies to address consistency; improve clarity and reflect scientific research pertaining to system impacts to groundwater.

Water Pollution Control Facilities 600 Permit Fee

DEQ is proposing rulemaking that would create new Water Pollution Control Facilities 600 permit fees for small and large water pollution control facilities. The WPCF 600 permit regulates non-chemical offstream small scale mining of metals, primarily gold. Almost all permittees are small operations that process fewer than 1500 cubic yards of material per year and currently do not pay an application or annual fee. As of Nov. 1, 2012, large operations that process between 1,500 and 10,000 cubic yards of placer or hard rock ore per year pay a \$207 application fee and no annual fee. There were approximately 200 permitted operations in 2004 and in 2012 there were 1,200 permitted operations. Proposed fees would recover the costs for administering the WPCF 600 permit.

Temperature Standards

DEQ anticipates rulemaking to revise water quality temperature standards. The scope and timing of the rulemaking will depend on the need to comply with impending court judgments and subsequent EPA action.

Air Quality Division

Air Quality Permitting Program Updates - carry forward from 2012

The proposed rules would simplify air quality rules by reorganizing and repealing outdated and duplicative rules; separate the construction review process for major and minor sources, making the process simpler for minor sources while still protecting air quality and incorporate recommendations from DEQ's Permitting Breakthrough Team

Federal Regulations - carry forward from 2012

The proposed rules would adopt new and amended federal air quality regulations and related permit rules. This includes adopting new national standards for electric utility steam generating units, gold mine ore processing and production, polyvinyl chloride and copolymers production, and sewage sludge incinerators, as well as changes to the federal gasoline dispensing facility rules. The rulemaking proposal would also clarify when and if Air Contaminant Discharge Permits are required for sources subject to NSPS and NESHAP.

Air Contaminant Discharge Fee – temporary rule

DEQ is proposing to increase the Air Contaminant Discharge Permit fees by approximately 20 percent to maintain an effective permitting program that protects Oregon's air quality. The increase compensates for inflation and personnel services cost increases since 2007, when fees were last increased. The increase requires legislative approval. DEQ is considering adding a fee category for certain permit modifications to improve equity.

Clean Fuels Fee

DEQ is proposing a legislative concept for the 2013 session that would authorize the Environmental Quality Commission to assess fees on fuel importers and Oregon producers of transportation fuels. The fees, subsequently established in rule, would support the program for two years of the 2013-2015 biennia through the initial registration, recordkeeping and reporting phase of the program. This proposed rule is dependent upon passage of legislation authorizing EQC to assess fees to support the Clean Fuels Program.

Greenhouse Gas Reporting

DEQ is proposing to update the Oregon greenhouse gas reporting requirements and clarify rules. The proposed amendments will reduce the burden of reporting on businesses by adding a reporting threshold for very small sources of emissions from the program. Simplifying the reporting process and clarifying the rules will help Oregonians comply with these requirements.

Infrastructure State Implementation Plan for NO₂, SO₂ and Lead

DEQ is proposing an update to Oregon's rules in response to EPA's revision to the National Ambient Air Quality Standards for nitrogen dioxide, sulfur dioxide and lead pollution. EPA changed the lead health standard in 2008 and the NO₂ and SO₂ health standards in 2010. States are required under the Clean Air Act to submit a State Implementation Plan revision within three years to incorporate the changes made to any NAAQS. DEQ worked with EPA to develop a cost-effective approach of bundling three different NAAQS revisions into one rulemaking.

Federal Regulations

The proposed rules would adopt new and amended National Emissions Standards for Hazardous Air Pollutants and New Source Performance Standards and related permitting rules. This includes the adoption of new federal standards for boilers, solid waste incinerators and stationary internal combustion engines. The co-benefits for NSPS include reduced hazardous air pollutants exposure and climate effects, and for the NESHAP, reduced volatile organic compound emissions, PM_{2.5} and ozone exposure, visibility and vegetation effects and climate effects. EPA estimates these regulations reduce hazardous air pollutant emissions by over 18 million pounds per year and fuel usage by over 86 trillion BTUs per year nationally.

Oregon Low Emission Vehicle

Oregon requires new light duty cars and trucks sold in the state to meet California's vehicle emission standards as is allowed by the Clean Air Act. However, the Act requires states that opt in to California's standards to adopt those rules identically. California recently tightened the greenhouse gas emission requirements for the period 2017 through 2025, and our adoption of the new requirements ensures they will apply in Oregon. The proposed rules may also include stronger requirements for the production and placement of Zero Emission Vehicles which are needed to meet the state's greenhouse gas reduction target.

Update Regional Haze Plan

DEQ is conducting a federally required five-year update to DEQ's Regional Haze Plan. The plan update will include visibility and emission trends over the last five years, the Columbia Gorge, and an assessment of the effectiveness of DEQ's regional haze strategy in improving visibility in Oregon's Class I areas. Once these revisions are adopted, DEQ will submit to the Environmental Protection Agency as a revision to Oregon's State Implementation Plan.

Smoke Management Program

The Oregon Department of Forestry is the designated lead agency for operating Oregon's Smoke Management Program. ODF and DEQ are jointly conducting a five-year periodic review of the program to identify improvements to the management of forestry burning to reduce impacts on air quality. Once these revisions are adopted, DEQ will submit a revision to Oregon's State Implementation Plan to the Environmental Protection Agency.

Joint DEQ and Lane Regional Air Pollution Agency

The Lane Regional Air Protection Agency is a local municipality that regulates air quality in Lane County. The Air Quality Division at DEQ is responsible for coordinating a joint rulemaking effort with LRAPA from development through Environment Quality Commission adoption and submission to the Environmental Protection Agency. Coordination includes reviewing LRAPA's rules for stringency, revising applicable OARs, ensuring federal and state public process requirements are followed and providing LRAPA the authority to hold a hearing

on behalf of the commission. EQC, in turn, directs DEQ to submit adopted rules to the EPA as a revision to the Oregon Clean Air Act State Implementation Plan.

PM_{2.5} and greenhouse gas

LRAPA's board adopted New Source Review/Prevention of Significant Deterioration, PM_{2.5} and greenhouse gas program rules in 2011.

Industrial Permitting Programs 2008

LRAPA's board adopted industrial permitting program rules in 2008 to streamline the program.

Open Burning 2008

LRAPA's board adopted changes to its Open Burning program in 2008.

Industrial Permitting Programs 2010 – new to DEQ for 2013

LRAPA's board adopted industrial permitting program rules in 2010 that clarified the 2008 rules.

2013 EQC Rulemaking Involvement Worksheet

Page two of this attachment is the commissioners' worksheet used to designate their involvement with rules on the 2013 DEQ Rulemaking Plan.

2013 EQC Rulemaking Involvement

EQC joint involvement				Individual Involvement
No involvement before EQC hears rule proposal	EQC Informational item	Include in Director's dialogue	EQC facilitated hearing	Add to advisory committee and notification links

Cross Program

Division 12 Updates

Division 18 Updates

Land Quality

Conversion Technology

Federal Rules Adoption and RCRA

Water Quality

Turbidity Standards

Aquatic Life Toxics

Major Modification Fee

Permit Fee Increase

Clean Water SRF

Underground Injection Control Fee

WPCF 600 Permit Fee

Temperature Standards

Air Quality

Permitting Program Updates

Federal Regulations

Air Contaminant Discharge Fee -temp

Clean Fuels Fee

Greenhouse Gas Reporting

Infrastructure SIP - NO₂, SO₂ & Lead

Federal Regulations

Oregon Low Emission Vehicle

Update Regional Haze Plan

Smoke Management Program
