

Proposed Rule Revisions to

OAR 340-045-0075 Permit Fee Schedule and OAR 340-071-0140 Onsite System Fees

Tables 70A through 70H below are referenced in OAR 340-045-0075, and include permit fees relating to NPDES and WPCF permits, with the exception of WPCF-Onsite septic system permits.

The fees listed in Tables 70A through 70H are effective Nov. 1, 2012.

Table 70A: Industrial NPDES & WPCF Individual Permit Application and Modification Fees

DEQ Class	New Permit Application Fee ¹	Major Modification at Permit Renewal	Major Modification Prior to Permit Expiration	Minor Modification	Permit Transfer
Tier 1	\$50,642 <u>49,311</u>	\$12,722 <u>12,388</u>	\$25,282 <u>24,617</u>	\$886 <u>863</u>	\$80 <u>78</u>
Tier 2	\$10,191 <u>9,923</u>	\$3,234 <u>3,149</u>	\$5,052 <u>4,919</u>	\$886 <u>863</u>	\$80 <u>78</u>
Special WPCF Permits issued pursuant to OAR 340-045-0061	\$483 <u>470</u>	N/A	N/A	N/A	\$80 <u>78</u>

1. New permit applications must include the annual fee specified in Table 70B in addition to the new permit application fee.

70B: Industrial NPDES & WPCF Individual Permit Annual Fees

Type	Description	NPDES Tier 1	NPDES Tier 2	WPCF Tier 1	WPCF Tier 2
B01	Pulp, paper, or other fiber pulping industry	\$17,708 <u>17,242</u>	N/A	\$16,435 <u>16,003</u>	N/A
Food or B beverage P rocessing - includes produce, meat, poultry, seafood or dairy for human, pet, or livestock consumption					
B02	Washing or Packing only	N/A	\$2,462 <u>2,397</u>	N/A	\$2,264 <u>2,204</u>
B03	Processing – small. Flow ≤ 0.1 mgd, or 0.1 < flow < 1 mgd for less than 180 days per year	N/A	\$3,680 <u>3,583</u>	N/A	\$3,482 <u>3,390</u>
B04	Processing – medium. 0.1 mgd < Flow < 1 mgd for 180 or more days per year, or flow ≥ 1 mgd for less than 180 days per year	N/A	\$5,193 <u>5,056</u>	N/A	\$4,995 <u>4,864</u>

Type	Description	NPDES Tier 1	NPDES Tier 2	WPCF Tier 1	WPCF Tier 2
B05	Processing – large. Flow \geq 1 mgd for 180 or more days per year.	\$ <u>17,708</u> 17,242	\$ <u>15,560</u> 15,151	\$ <u>16,435</u> 16,003	\$ <u>15,360</u> 14,956
Primary <u>S</u> melting or <u>R</u> efining					
B06	Aluminum	\$ <u>17,708</u> 17,242	\$ <u>15,560</u> 15,151	\$ <u>16,435</u> 16,003	\$ <u>15,360</u> 14,956
B07	Non-ferrous metals utilizing sand chlorination separation facilities	\$ <u>17,708</u> 17,242	\$ <u>15,560</u> 15,151	\$ <u>16,435</u> 16,003	\$ <u>15,360</u> 14,956
B08	Ferrous and non-ferrous metals not elsewhere classified	\$ <u>10,127</u> 9,861	\$ <u>7,977</u> 7,767	\$ <u>8,854</u> 8,621	\$ <u>7,780</u> 7,575
B09	Chemical manufacturing with discharge of process wastewater	\$ <u>17,708</u> 17,242	\$ <u>15,560</u> 15,151	\$ <u>16,435</u> 16,003	\$ <u>15,360</u> 14,956
B10	Cooling water discharges in excess of 20,000 BTU per sec	\$ <u>10,127</u> 9,861	\$ <u>7,977</u> 7,767	\$ <u>8,854</u> 8,621	\$ <u>7,780</u> 7,575
Mining Operations – includes aggregate or ore processing					
B11	Large (over 500,000 cubic yards per year or involving chemical leaching)	\$ <u>17,708</u> 17,242	\$ <u>15,560</u> 15,151	\$ <u>16,435</u> 16,003	\$ <u>15,360</u> 14,956
B12	Medium (100,000 to 500,000 cubic yards per year)	N/A	\$ <u>5,447</u> 5,304	N/A	\$ <u>5,249</u> 5,111
B13	Small (less than 100,000 cubic yards per year)	N/A	\$ <u>1,658</u> 1,614	N/A	\$ <u>1,460</u> 1,422
All facilities not elsewhere classified which dispose of process wastewater (includes remediated groundwater)					
B14	Tier 1 sources	\$ <u>17,708</u> 17,242	N/A	\$ <u>16,435</u> 16,003	N/A
B15	Tier 2 sources	N/A	\$ <u>3,427</u> 3,337	N/A	\$ <u>3,231</u> 3,146
B16	All facilities not elsewhere classified which dispose of non-process wastewaters (for example: small cooling water discharges, boiler blowdown, filter backwash)	N/A	\$ <u>2,294</u> 2,234	N/A	\$ <u>2,096</u> 2,041

Type	Description	NPDES Tier 1	NPDES Tier 2	WPCF Tier 1	WPCF Tier 2
B17	Dairies, fish hatcheries and other confined feeding operations on individual permits	N/A	\$ 2,008 <u>1,955</u>	N/A	\$ 1,811 <u>1,763</u>
B18	All facilities which dispose of wastewater only by evaporation from watertight ponds or basins	N/A	N/A	N/A	\$ 1,331 <u>1,296</u>
Timber and Wood Products					
B19	Sawmills, log storage, instream log storage	\$ 4,967 <u>4,836</u>	\$ 2,818 <u>2,744</u>	\$ 3,695 <u>3,598</u>	\$ 2,619 <u>2,550</u>
B20	Hardboard, veneer, plywood, particle board, pressboard manufacturing, wood products	\$ 5,252 <u>5,114</u>	\$ 3,104 <u>3,022</u>	\$ 3,981 <u>3,876</u>	\$ 2,907 <u>2,831</u>
B21	Wood preserving	\$ 4,444 <u>4,327</u>	\$ 2,294 <u>2,234</u>	\$ 3,171 <u>3,088</u>	\$ 2,096 <u>2,041</u>

Table 70C: Domestic NPDES & WPCF Individual Permits

Description	Type	Classification Criteria (Based on Average Dry Weather Design Flow, or as defined in 40CFR)	Class	New Permit App.Fee ¹	Base Annual Fee, 5 year permits	Base Annual Fee, 10 year permits	Additional Annual Fees	Major Modification	Minor Modification
Nondischarging lagoons	E	N/A or applicable	Tier 2	\$3,302 3,215	N/A	\$1,054 1,026		\$1,691 1,647	\$886 863
Lagoons that discharge to surface waters	Db	Flow < 1 mgd	Tier 2	\$6,521 6,350	\$1,264 1,231	N/A		\$3,302 3,215	\$886 863
	C2b	1 mgd ≤ Flow < 2 mgd	Tier 1	\$32,285 31,436	\$3,332 3,244	N/A		\$16,182 15,757	\$886 863
	C1b	2 mgd ≤ Flow < 5 mgd	Tier 1	\$32,285 31,436	\$4,566 4,446	N/A		\$16,182 15,757	\$886 863
	Bb	5 mgd ≤ Flow < 10 mgd	Tier 1	\$32,285 31,436	\$6,565 6,392	N/A	Additional fees include population and pretreatment fees. See tables 70D and 70E for determination of these fees.	\$16,182 15,757	\$886 863
Treatment systems other than lagoons	Da	Flow < 1 mgd	Tier 2	\$6,521 6,350	\$1,794 1,747	\$1,665 1,621		\$3,302 3,215	\$886 863
	C2a	1 mgd ≤ Flow < 2 mgd	Tier 1	\$32,285 31,436	\$5,666 5,517	\$4,853 4,725		\$16,182 15,757	\$886 863
	C1a	2 mgd ≤ Flow < 5 mgd	Tier 1	\$32,285 31,436	\$8,348 8,129	\$7,536 7,338		\$16,182 15,757	\$886 863
	Ba	5 mgd ≤ Flow < 10 mgd	Tier 1	\$32,285 31,436	\$12,415 12,089	\$11,603 11,298		\$16,182 15,757	\$886 863
	A3	10 mgd ≤ Flow < 25 mgd	Tier 1	\$32,285 31,436	\$19,366 18,857	N/A		\$16,182 15,757	\$886 863
	A2	25 mgd ≤ Flow < 50 mgd	Tier 1	\$32,285 31,436	\$41,090 40,010	N/A		\$16,182 15,757	\$886 863
	A1	≥ 50 mgd	Tier 1	\$32,285 31,436	\$69,915 68,077	N/A		\$16,182 15,757	\$886 863
Septage alkaline stabilization facilities	F	N/A or applicable	Tier 2	\$886 863	N/A	\$363 353	N/A	N/A	\$402 391

Description	Type	Classification Criteria (Based on Average Dry Weather Design Flow, or as defined in 40CFR)	Class	New Permit App. Fee ¹	Base Annual Fee, 5 year permits	Base Annual Fee, 10 year permits	Additional Annual Fees	Major Modification	Minor Modification
Municipal Separate Storm Sewer System water Permits: MS4 Phase 1, Phase 2. UIC Permits.	MS4 Phase 1	See 40 CFR §122.26	N/A	\$17,929 17,458	\$4,036 3,930	N/A	N/A	N/A	\$1,558 1,517
	MS4 Phase 2		N/A	\$803 782	\$826 804	N/A	N/A	N/A	\$1,558 1,517
	UIC	As defined in 40 CFR parts 9, 144, 145 and 146	N/A	\$9,923	N/A	\$2,041	N/A	N/A	\$863
Underground Injection Control	Various UIC	As defined in 40 CFR parts 9, 144, 145 and 146	N/A	\$10,191 9,923	N/A	\$2,096 2,041	N/A	N/A	\$886 863

1. New permit applications must include the annual fee in addition to the new permit application fee.

Table 70D: Domestic NPDES & WPCF Annual Population Fee

Population range	Annual fee
500,000+	\$ 93,930 <u>91,461</u>
400,000 to 499,999	\$ 71,857 <u>69,968</u>
300,000 to 399,999	\$ 49,783 <u>48,474</u>
200,000 to 299,999	\$ 27,708 <u>26,980</u>
150,000 to 199,999	\$ 22,410 <u>21,821</u>
100,000 to 149,999	\$ 14,760 <u>14,372</u>
50,000 to 99,999	\$ 9,258 <u>9,015</u>
25,000 to 49,999	\$ 4,160 <u>4,051</u>
15,000 to 24,999	\$ 2,368 <u>2,306</u>
10,000 to 14,999	\$ 1,543 <u>1,502</u>
5,000 to 9,999	\$ 939 <u>914</u>
1,000 to 4,999	\$ 281 <u>274</u>
100 to 999	\$ 52 <u>51</u>
0 to 99	\$0

Table 70E: Annual Pretreatment Fees

<u>Description</u>	<u>Fee</u>
Pretreatment Fee	\$ 1,610 <u>1,568</u>
Significant Industrial User	\$ 537 <u>523</u> per industry

Table 70F: Technical Activity and Other Fees

Activity	Fee
New or substantially modified sewage treatment facility	\$7,408 <u>7,213</u>
Minor sewage treatment facility modifications and pump stations	\$805 <u>784</u>
Pressure sewer system or major sewer collection system expansion	\$565 <u>550</u>
Minor sewer collection system expansion or modification	\$160 <u>156</u>
New or substantially modified water pollution control facilities using alkaline agents to stabilize septage	\$805 <u>784</u>
Permit Transfer	\$80 <u>78</u>

Table 70G: General NPDES & WPCF Permits

Number	Type	Description	New Permit Application Fee ¹	Annual Fee
100-J	NPDES	Cooling water/heat pumps	\$207 <u>202</u>	\$469 <u>457</u>
200-J	NPDES	Filter Backwash	\$207 <u>202</u>	\$469 <u>457</u>
300-J	NPDES	Fish Hatcheries	\$328 <u>319</u>	\$469 <u>457</u>
400-J	NPDES	Log Ponds	\$207 <u>202</u>	\$469 <u>457</u>
500-J	NPDES	Boiler blowdown	\$207 <u>202</u>	\$469 <u>457</u>
600	WPCF	Offstream small scale mining – processing less than five cubic yards of material per day, or less than 1500 cubic yards per year	\$0	\$0
		Offstream small scale mining – processing 1,500 to 10,000 cubic yards of material per year	\$207 <u>202</u>	\$0
700-PM ²	NPDES	Suction dredges	\$0	\$25
900-J	NPDES	Seafood processing	\$207 <u>202</u>	\$469 <u>457</u>
1000	WPCF	Gravel mining	\$207 <u>202</u>	\$469 <u>457</u>

1200-A ³	NPDES	Storm Water: Sand, gravel, and other non-metallic mining	\$ <u>803,782</u>	\$ <u>826,804</u>
1200-C ³	NPDES	Storm Water: Construction activities – one acre or more	\$ <u>803,782</u>	\$ <u>826,804</u>
1200-C ³	NPDES	Storm Water: Construction activities – less than one acre and part of a common plan of development disturbing one or more acres	\$ <u>236,230</u>	\$0
1200-CA	NPDES	Storm Water: Construction activities performed by public agencies – one acre or more	\$ <u>803,782</u>	\$ <u>826,804</u>
1200-COLS ³	NPDES	Stormwater: industrial stormwater discharge to Columbia Slough	\$ <u>803,782</u>	\$ <u>826,804</u>
1200-Z ^{3,4}	NPDES	Storm Water: Industrial	\$ <u>803,782</u>	\$ <u>826,804</u>
1400-A	WPCF	Wineries and seasonal fresh pack operations whose wastewater flow does not exceed 25,000 gallons per day and is only disposed of by land irrigation.	\$ <u>207,202</u>	\$ <u>275,268</u>
1400-B	WPCF	Wineries and small food processors not otherwise eligible for a 1400A general permit.	\$ <u>328,319</u>	\$ <u>469,457</u>
1500-A	NPDES	Petroleum hydrocarbon clean-up	\$ <u>328,319</u>	\$ <u>469,457</u>
1500-B	WPCF	Petroleum hydrocarbon clean-up	\$ <u>328,319</u>	\$ <u>469,457</u>
1700-A	NPDES	Vehicle & equipment wash water	\$ <u>458,446</u>	\$ <u>469,457</u>
1700-B	WPCF	Vehicle & equipment wash water	\$ <u>458,446</u>	\$ <u>469,457</u>
1900-J	NPDES	Non-contact geothermal heat exchange	\$ <u>458,446</u>	\$ <u>469,457</u>
2401	WPCF	Tier 1 graywater reuse and disposal system for residential systems not exceeding 300 gallons per day, or equivalent specific geographic area graywater reuse and disposal area permit	\$50	\$40
2402	WPCF	Tier 2 graywater reuse and disposal system for systems not exceeding 1,200 gallons per day, or equivalent specific geographic area graywater reuse and disposal area permit	\$534	\$50

Other	\$ 458,446	\$469,457
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1. New permit applications must include both the new permit application fee and the first year's annual fee.
2. A person registered under the 700-PM permit may pre-pay \$90 for permit coverage through 2014 in lieu of the \$25 annual fee.
3. Some of these permits are administered by public agencies under contract with DEQ.
4. This permit incorporates the 1300-J permit.

Table 70H: General Permit Activity and Other Fees

<u>Activity</u>	<u>Fee</u>
Disposal system plan review ¹	\$ 504,491
Site inspection and evaluation ¹	\$ 1,261,128
Permit Transfer	\$ 80.78

1. These fees apply when these activities are required for DEQ's review of the application.

Table 9D below includes fees relating to WPCF-Onsite septic system permits, also known as WPCFOS permits. This table is referenced in OAR 340-071-0140. WPCFOS permits are distinguished from ordinary residential septic system permits which are issued under ORS 454 in that they meet at least one of the following three criteria: 1. They are large (>2500 gallons per day), 2. They are designed to treat high strength wastewater (defined as stronger than that associated with residential systems, as defined in Division 71), 3. They involve treatment systems or disposal methods that are not described in Division 71.

The fees listed in Table 9D are effective Nov. 1, 2012.

Table 9D: WPCF permit fees.						
		Application filing fee (all systems)	Permit processing fees for onsite systems with a design capacity of 1,200 gpd or less	Permit processing fees for onsite systems with a design capacity over 1,200 gpd	Plan review fee	Annual compliance determination fee
New application		\$ 70.68	\$ 560,545	\$ 2,797,273		
Permit renewal (involving request for effluent limit modifications)		\$ 70.68	\$ 279,272	\$ 1,399,136		
Permit renewal (without request for effluent limit modifications)		\$ 70.68	\$ 141,137	\$ 698,680		

Table 9D: WPCF permit fees.						
		Application filing fee (all systems)	Permit processing fees for onsite systems with a design capacity of 1,200 gpd or less	Permit processing fees for onsite systems with a design capacity over 1,200 gpd	Plan review fee	Annual compliance determination fee
Permit modification (involving increase in effluent limitations)		\$70.68	\$279.272	\$1,399.4362		
Permit modification (not involving an increase in effluent limits)		\$70.68	\$210.204	\$698.680		
For commercial facilities with a design capacity less than 600 gpd					\$0	
For commercial facilities with a design capacity of 600 - 1,000 gpd					\$267 260	
For commercial facilities with a design capacity of 1,001 - 1,500 gpd					\$315 307	
For commercial facilities with a design capacity of 1,501 - 2,000 gpd					\$362 352	
For commercial facilities with a design capacity of 2,001 - 2,500 gpd					\$408 397	
For commercial facilities with a design capacity of 2,501 - 3,000 gpd					\$478 465	
For commercial facilities with a design capacity of 3,001 - 3,500 gpd					\$525 514	
For commercial facilities with a design capacity of 3,501 - 4,000 gpd					\$571 556	
For commercial facilities with a design capacity of 4,001 - 4,500 gpd					\$617 604	
For commercial facilities with a design capacity of 4,501 - 5,000 gpd					\$664 647	
Commercial facilities with a design capacity greater than 5,000 gpd					\$698 680	
Single family dwelling					\$141 137	
Onsite sewage lagoon with no discharge						\$839.817
Treatment Standard 1 or better systems with design capacities less than 2,500 gpd						\$350.341
Treatment Standard 1 or better systems with design capacities of 2,501 - 20,000 gpd						\$698.680
Holding tanks, if by the date specified by the department, the owner does not submit written certification to the department that the holding tank has been operated the previous calendar year in full compliance with the permit or that the previous year's service logs for the holding tanks are not available for inspection by						\$279.272

Table 9D: WPCF permit fees.						
		Application filing fee (all systems)	Permit processing fees for onsite systems with a design capacity of 1,200 gpd or less	Permit processing fees for onsite systems with a design capacity over 1,200 gpd	Plan review fee	Annual compliance determination fee
the department.						
Holding tanks, if by the date specified by the department, the owner submits written certification to the department that the holding tank has been operated the previous calendar year in full compliance with the permit and that the previous year's service logs for the holding tanks are available for inspection by the department.						\$30 29
Other systems with design capacities less than 20,000 gpd						\$350 341
Other systems with design capacities greater than 20,000 gpd						\$698 680
Site Evaluation Confirmation	\$490 477					

Summary of Public Comment and Agency Response

Water Quality Permit Fees

Prepared by: Christopher Clipper

Date: Aug. 24, 2012

Comment period DEQ provided a public comment period July 16, 2012, to 5 p.m. Aug. 24, 2012. DEQ held public hearings in Bend on Aug. 15, 2012; in Medford on Aug. 20, 2012; and in Portland on Aug. 21, 2012. No persons attended the hearings. DEQ received 14 written comments by email.

Organization of comments and responses The following summary shows the reference number of the person who provided comment, the comment and DEQ's response. A list of the people who provided comment and their reference numbers follows this summary.

Reference number	<i>Summary of comments and agency responses</i>
1, 11	<p>Comment The proposed 3 percent increase in permit fees is supported.</p> <p>DEQ's response (Not applicable.)</p>
2, 3, 4, 5, 6, 8, 9, 12	<p>Comment The proposed fees, during a downturn in the economy and combined with the cost of doing business, represent a hardship and are opposed. Instead of increasing fees, DEQ should look towards efficiencies within existing programs or cut/reduce existing programs and services to reduce costs.</p> <p>DEQ's response DEQ acknowledges the fee increase may represent a hardship to businesses, especially small businesses. DEQ also agrees that increasing efficiency is important. Some examples of recent program efficiencies include: an electronic system for reviewing monthly monitoring reports for major facilities and working with local government to reduce duplicative construction stormwater permitting. DEQ is also working towards electronic reporting of permit data and will continue to look for and prioritize program efficiencies. Even with these efficiencies, program costs are predicted to increase 3.04 percent in fiscal year 2013.</p>
7, 10	<p>Comment The proposed fee increase for graywater permits (permit number 2401 and 2402) is opposed. The program and permits have been in effect for approximately one year, and raising the fees will discourage implementation of the program.</p> <p>DEQ's response DEQ agrees that increasing graywater permit fees will discourage implementation of this new program and would be counter-productive to the intent to encourage graywater reuse permitting through low permit fees. For this reason, DEQ changed its proposal following the public comment period to reflect no permit fee increase for graywater permits.</p>

13, 14	<p>Comment</p> <p>The proposed 3 percent fee increase results in a funding split of 67 percent for permit fees and 33 percent for general and federal funds. Fee increases that do not honor the 60:40 funding split as recommended in the <i>Blue Ribbon Committee Report on Key Enhancements to the Oregon Wastewater Permitting Program (August 2004)</i> are opposed.</p>
	<p>DEQ's response</p> <p>DEQ acknowledged this funding split difference in the Statement of Need and Fiscal and Economic Impact form published during the public comment period. A permit fee increase based on a 60:40 percent funding split is 2.7 percent. In an effort to meet the Blue Ribbon Committee recommendation, DEQ changed its proposal following the public comment period from the originally proposed 3 percent fee increase to a 2.7 percent fee increase.</p>

<i>List of commenters and reference numbers</i>				
Reference Number	Name	Organization	City and State	Date Received (mm/dd/yy)
1	Meryle Korn	(Not Provided)	Portland, OR	7/16/12
2	Jen Tonneson	Rocky Pointe Marina	(Not Provided)	7/16/12
3	R.J. Lint	(Not Provided)	(Not Provided)	7/18/12
4	Brad Johnson	Umpqua Basin Water	Roseburg, OR	7/23/12
5	Ben Hirengen	Waste Management	Klamath Falls, OR	7/24/12
6	Francis (Last Name Not Provided)	(Not Provided)	(Not Provided)	7/25/12
7	Shannon Ostendorff	City of Redmond	Redmond, OR	7/31/12
8	Brad Barcroft	(Not Provided)	(Not Provided)	8/1/12
9	Pat Murphy	(Not Provided)	La Pine, OR	8/2/12
10	Ken Vanderford	City of Eugene	Eugene, OR	8/3/12
11	Gerald Fisher	City of Silverton	Silverton, OR	8/7/12
12	Fred, Candy, Deidra and Tony (Last Name Not Provided)	LaBrasseur Vineyard	Eagle Point, OR	8/14/12
13	Janet Gillaspie Robin Freeman Mark Landauer	Oregon Assoc. of Clean Water Agencies League of Oregon Cities Special Districts Assoc. of Oregon	(Not Provided)	8/16/12
14	Len Goodwin	Metropolitan Wastewater Management Commission	(Not Provided)	8/22/12

Blue Ribbon Committee Membership

Name	Organization
Emily Ackland	Assoc. of Oregon Counties
Ed Butts	4B Engineering and Consulting LLC
Michael Campbell	Stoel Rives LLP
Jon Chandler	Oregon Homebuilders Assoc.
Robin Freeman	League of Oregon Cities
Janet Gillaspie	Assoc. Clean Water Agencies
Kurt Harrington	AMEC Earth & Environmental, Inc.
Teresa Huntsinger	Oregon Environmental Council
Mark Landauer	Special Districts Assoc. of Oregon Oregon Public Ports Assoc.
John Ledger	Associated Oregon Industries
Gerald Linder	Chair of Assoc. Clean Water Agencies Board
Peggy Lynch	League of Women Voters
Dorothy Sperry	Port of Portland
Eric Strecker	Geosyntec Consultants
Kathryn Van Natta	Northwest Pulp & Paper
Travis Williams	Willamette Riverkeeper

Presiding Officer's Report on Public Hearings

State of Oregon
Department of Environmental Quality

Memorandum

Date: Aug. 29, 2012
To: Oregon Environmental Quality Commission
From: Christopher Clipper, DEQ

Subject: Presiding Officer's Report for Rulemaking Hearing
Title of Proposal: Water Quality Permit Fees

Hearing One

Date and time: Aug. 15, 2012, 6 p.m.
Location: DEQ - Bend Office, Bend, Oregon

Hearing Two

Date and time: Aug. 20, 2012, 6 p.m.
Location: DEQ - Medford Office, Medford, Oregon

Hearing Three

Date and time: Aug. 21, 2012, 6 p.m.
Location: DEQ - Headquarters, Portland, Oregon

DEQ convened each of the rulemaking hearings listed at 6 p.m. and closed the hearings at 6:30 p.m. One DEQ employee attended the hearings: Christopher Clipper as presenter and presiding officer. No other persons attended.

State of Oregon

DEPARTMENT OF ENVIRONMENTAL QUALITY

Relationship to Federal Requirements

RULE CAPTION

This rulemaking increases water quality permit fees by 2.7 percent to address increasing permit program costs.

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and potential justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).

1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?

There are no applicable federal requirements. The proposed rulemaking affects fees for Oregon's National Pollutant Discharge Elimination System and Water Pollution Control Facility permitting programs (OAR 340-018-0030(5)(c) Issuance of On-site Sewer Permit and OAR 340-018-0030(5)(d) Issuance of NPDES and WPCF Permits), which regulate wastewater discharges from industrial and municipal sources. This rulemaking does not alter any permit requirements other than the fee amounts.

2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).

There are no applicable federal requirements.

3. If the proposal differs from, or is in addition to, applicable federal requirements, did the Department consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.

There are no applicable federal requirements.

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT

This rulemaking increases water quality permit fees by 2.7 percent to address increasing permit program costs.
This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	Water Quality Permit Fees
Statutory Authority or other Legal Authority	Oregon Revised Statutes 454.625, 468.020 and 468.065
Statutes Implemented	Oregon Revised Statutes 454.745, 454.755, 468.065, 468B.035, 468B.050, 468B.051 and 468B.195
Need for the Rule(s)	<p>State law (Oregon Revised Statutes 468.065) authorizes the Environmental Quality Commission to set fee schedules for the Department of Environmental Quality's Water Quality Division by rule. This rulemaking will revise Oregon Administrative Rule Chapter 340, Divisions 45 and 71 by increasing water quality permit fees by 2.7 percent. Permit fees will increase for most National Pollutant Discharge Elimination System, Water Pollution Control Facility, and WPCF-Onsite septic system permits. Suction dredge (700-PM) permits will not be affected by the fee increase, since those permit fees are set in statute and can only be changed by the legislature. Graywater (2401 and 2402) permits will also not be affected by the fee increase in an effort to encourage graywater reuse permitting.</p> <p>Through this rulemaking, DEQ seeks commission adoption of 2.7 percent fee increases for water quality permits. In 2002, DEQ convened the Blue Ribbon Committee – comprised of industry, environmental and local government representatives – to recommend improvements to DEQ's water quality permit program. In 2004, the Blue Ribbon Committee published a report containing a variety of recommendations, including increasing fee revenue to help cover increasing costs and support existing and new program staff. The 2005 Oregon Legislature adopted a recommendation that authorizes the commission to raise fees annually in an amount not to exceed the anticipated increase in the cost of administering the permit program or 3 percent, whichever is lower (Oregon Revised Statutes 468B.051). Up-to-3 percent fee increases were adopted by the commission in 2007 (3 percent), 2008 (3 percent), 2010 (3 percent) and 2011 (2 percent).</p> <p>To complete the rulemaking action, DEQ will amend the fee tables established in Oregon Administrative Rule 340-045-0075 and 340-071-0140.</p>
Documents Relied Upon for Rulemaking	<ul style="list-style-type: none"> • Blue Ribbon Committee Report on Key Enhancements to the Oregon Wastewater Permitting Program – 2004 • Cost factors approved through the state's budget process • Compensation plan changes • Fee increase calculations • DEQ 2011-2013 Legislatively Approved Budget • DEQ's water quality permit database • Application and annual fee invoice records • Oregon Revised Statutes 468B.051
Requests for Other Options	Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

Fiscal and Economic Impact, Statement of Cost Compliance																						
Overview	<p>DEQ notified all permit holders of the proposed fee increases prior to the commission meeting. If the proposed fee increases are adopted, permit holders can incorporate the fee increase information in their annual budget and operations planning. For further information regarding the calculation of the fee increases, please contact Chris Clipper at 503-229-5656.</p> <p>As a result of this rulemaking, fees will increase by 2.7 percent for most NPDES and WPCF permits, including WPCF-Onsite and stormwater permits. Suction dredge and graywater permit fees will not increase through this rulemaking. To establish the amount of the proposed increase for fiscal year 2013 (July 1, 2012-June 30, 2013), DEQ analyzed expected cost increases for FY 2013 relative to the costs for FY 2012, keeping staffing levels constant. The projected increases in personnel services and indirect services can be attributed to projected increasing costs of medical benefits, staff salaries, and the Public Employees Retirement System. As a result of collective bargaining, effective July 1, 2012, eligible employees will receive one-half of a step salary increase on their salary eligibility date and will receive the remainder of the step six months thereafter. Eligible employees with salary eligibility dates between January 2013 and June 2013, receive the second half of the step increase effective July 1, 2013. Effective Dec. 1, 2011, salary rates were increased by 1.50 percent. Effective Dec. 1, 2012, salary rates will be increased by 1.45 percent. These cost increases are partly offset by a decrease in state contributions to health and dental insurance premium costs. For the period of Jan. 1, 2012, through June 30, 2013, the state will pay 95 percent and employees will pay 5 percent of the monthly premium rate.</p> <p>The combined effects of the budget categories (see table below) represent a total increase of 3.04 percent in projected costs for FY 2013.</p> <table><tr><th>Budget Category</th><th>Percent of FY 2012 Cost Structure</th><th>Projected Cost Increase FY 2013</th></tr><tr><td>Personnel Services (salaries, benefits)</td><td>75.57%</td><td>3.11%</td></tr><tr><td>Services and Supplies (rent, utilities)</td><td>10.16%</td><td>2.50%</td></tr><tr><td>Contract</td><td>0.00%</td><td>2.50%</td></tr><tr><td>Special Payment</td><td>0.19%</td><td>0.00%</td></tr><tr><td>Indirect Services (management, business services)</td><td>14.08%</td><td>3.11%</td></tr><tr><td>Total</td><td>100%</td><td>3.04%</td></tr></table> <p>Permit fees are intended to cover 60 percent of the program costs, while other public funds are expected to cover the remaining 40 percent of costs. DEQ originally proposed a 3 percent fee increase for this rulemaking. Based on the 2011-2013 Legislatively Approved Budget, the funding split is approximately 67 percent for permit fees and 33 percent for general and federal funds when considering the originally proposed 3 percent permit fee increase. A permit fee increase based on a 60:40 percent funding split is 2.7 percent. In an effort to meet the Blue Ribbon Committee recommendation, DEQ changed its proposal following the public comment period to reflect a 2.7 percent fee increase.</p> <p>The fee increase will impact approximately 4,700 permit holders (excluding suction dredge and graywater permittees). Depending upon the permit, application fee increases will range from \$5 to \$1,331 and annual fee increases will range from \$1 to \$2,469.</p>	Budget Category	Percent of FY 2012 Cost Structure	Projected Cost Increase FY 2013	Personnel Services (salaries, benefits)	75.57%	3.11%	Services and Supplies (rent, utilities)	10.16%	2.50%	Contract	0.00%	2.50%	Special Payment	0.19%	0.00%	Indirect Services (management, business services)	14.08%	3.11%	Total	100%	3.04%
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Impacts on the General Public	Though DEQ cannot determine the extent to which the proposed fees will impact each consumer, DEQ expects some impact on the public, primarily through an increase to the costs of goods and services offered by permit holders.	
Impacts to Small Business (50 or fewer employees –ORS183.310(10))	For this section, DEQ used Oregon Employment Department information to calculate the impact of the proposed fee increases on small businesses. In 2006, the Oregon Employment Department found that 96 percent of Oregon businesses were small businesses. Although DEQ cannot determine the extent to which the 2.7 percent fee increases will impact each permit holder, DEQ expects that the fee increase will have impact on small businesses. Fiscal impact to a small business is dependent upon the type of permit issued, but application fee increases will range from \$5 to \$1,331 and annual fee increases will range from \$1 to \$2,469.	
Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))	a) Estimated number of small businesses subject to the proposed rule	DEQ estimates 3,800 of 4,700 wastewater permit holders impacted by the 2.7 percent fee increase are small businesses.
	b) Types of businesses and industries with small businesses subject to the proposed rule	<p>The types of businesses/industries holding wastewater permits include, but are not limited to: food processors, mining operations, dairies, fish hatcheries, smelting/refining operations, timber processing, wood products manufacturing, retail operations, seafood processors, gravel mining, wineries, seasonal fresh pack operations, petroleum hydrocarbon clean-up operations, and vehicle and equipment wash water operations.</p> <p>The types of businesses/industries holding onsite septic system permits include, but are not limited to: machine shops, offices, retail stores, RV parks, mobile home parks, private camps, golf courses, churches, resorts, restaurants, gas stations, markets, taverns and industry.</p>
	c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services	The proposed rules do not require additional administrative activities.
	d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule	The proposed rules do not require additional equipment or administration requirements.
	e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	The proposal to allow DEQ to seek an up-to-3 percent annual fee increase to account for program cost increases, originated with the Blue Ribbon Committee. The Blue Ribbon Committee represents the wastewater community as a whole, and includes small businesses.

Impacts on Large Business (all businesses that are not "small businesses" under ORS183.310(10))	DEQ estimates the 2.7 percent fee increase will impact approximately 150 large businesses, and that for these businesses, the fee increase is small compared to the overall yearly operating costs of permit holders.
Impacts on Local Government	For this section, a local government is defined as 1) a group of local government functions within a jurisdiction that each hold water quality permits (e.g., City of Portland – including Portland School District and Port of Portland – is counted as one local government); or 2) a single organization within a jurisdiction, if only one local government function holds a permit (e.g., includes but is not limited to water districts, cities, towns, ports, sanitary districts, library districts, counties, and school districts). This rulemaking will increase water quality permit fees by 2.7 percent for 301 local governments that hold approximately 571 permits.
Impacts on State Agencies other than DEQ	Twenty-one Oregon state agencies hold about 133 water quality permits. Proposed fee increases vary from \$12 for the NPDES General 300 fish hatchery permit (29 permits) to \$90 for an NPDES-B15 industrial wastewater processing permit (three permits).
Impacts on DEQ	The proposed 2.7 percent fee increase will generate approximately \$135,000 to cover increased water quality program costs.
Assumptions	DEQ assumes that for most businesses, local governments, and state agencies, the cost of obtaining and keeping a water quality permit is small compared to overall operating costs.
Housing Costs	DEQ has determined that this proposed rulemaking will have the following effect on the cost of development of a 6,000 square foot (0.1 acre) parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel: A builder on a 6,000 square foot parcel will be required to pay \$236 for a construction stormwater permit, if the parcel is part of a common plan of development disturbing one or more acres. A builder on a 6,000 square foot parcel that is not part of a common plan of development disturbing one or more acres, will not be required to obtain a construction stormwater permit, and consequently will not be required to pay the \$236 permit fee. While the fee will not likely have significant impact on new housing projects, the fee could impact projects by affecting construction costs that are agreed upon between a builder and the buyer. DEQ estimates that home builders will likely pass the permit cost to home buyers.
Administrative Rule Advisory Committee	The proposal to allow DEQ to seek an up-to-3 percent annual fee increase to account for program cost increases originally came from the Blue Ribbon Committee and was subsequently approved by the Legislature. The Blue Ribbon committee includes representatives from the wastewater and stormwater community as well as other stakeholders. DEQ met with the Blue Ribbon Committee on May 18, 2012 for input on the fiscal impact of the rulemaking.

Christopher Clipper

Prepared by

Printed name

Date

James Roys

Approved by DEQ Budget Office

Printed name

Date

Item G 000022

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Land Use Evaluation Statement

Rulemaking Proposal
for
Water Quality Permit Fees

RULE CAPTION

This rulemaking increases water quality permit fees by 2.7 percent to address increasing permit program costs.

1. Explain the purpose of the proposed rules.

The Environmental Quality Commission may 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 (ORS 468B.051). DEQ anticipates a 3.04 percent increase in program costs between July 2012 and June 2013, relative to costs from July 2011 to June 2012.

By agreement with stakeholders permit fees are intended to cover 60 percent of the program costs, while other public funds are expected to cover the remaining 40 percent of costs. DEQ originally proposed a three percent fee increase for this rulemaking. Based on the 2011-2013 Legislatively Approved Budget, a three percent permit fee increase would yield a funding split that is approximately 67 percent permit fees and 33 percent general and federal funds. A permit fee increase based on a 60:40 funding split results in a 2.7 percent fee increase. DEQ changed its proposal following the public comment period to reflect a 2.7 percent fee increase.

DEQ proposes increasing water quality permit fees by 2.7 percent for fiscal year 2013 to help cover increased program costs. The proposed fee increase will affect most National Pollutant Discharge Elimination System, Water Pollution Control Facility, and WPCF-Onsite septic system permit holders.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination Program?

Yes X No

a. If yes, identify existing program/rule/activity:

The proposed rules affect Oregon's NPDES and WPCF permitting programs (OAR 340-018-0030(5)(c) Issuance of On-site Sewer Permit and OAR 340-018-0030(5)(d) Issuance of NPDES and WPCF Permits), which regulate wastewater discharges from industrial and municipal sources.

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes X No _____ (if no, explain):

DEQ will implement the proposed rules through its water quality permitting program. An approved land use compatibility statement is required from local government before issuance of most NPDES or WPCF permits.

c. If no, apply the following criteria to the proposed rules.

Staff should refer to Section III, subsection 2 of the SAC document in completing the evaluation form. Statewide Goal 6 - Air, Water and Land Resources is the primary goal that relates to DEQ authorities. However, other goals may apply such as Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources; Goal 11 - Public Facilities and Services; Goal 16 - Estuarine Resources; and Goal 19 - Ocean Resources. DEQ programs and rules that relate to statewide land use goals are considered land use programs if they are:

- 1. Specifically referenced in the statewide planning goals; or*
- 2. Reasonably expected to have significant effects on*
 - a. resources, objectives or areas identified in the statewide planning goals, or*
 - b. present or future land uses identified in acknowledged comprehensive plans.*

In applying criterion 2 above, two guidelines should be applied to assess land use significance:

- The land use responsibilities of a program/rule/action that involved more than one agency, are considered the responsibilities of the agency with primary authority.*
- A determination of land use significance must consider the Department's mandate to protect public health and safety and the environment.*

In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

Not applicable.

3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures DEQ will use to ensure compliance and compatibility.

Not applicable.