


State of Oregon
Department of Environmental Quality

Memorandum

Date: July 23, 2010
To: Environmental Quality Commission
From: Dick Pedersen, Director 
Subject: Agenda item B, Rule adoption: Water quality permit fee increases
August 18-19, 2010 EQC meeting

Why this is important This proposed rulemaking provides fee revenue to administer Oregon's National Pollutant Discharge Elimination System and Water Pollution Control Facility permit programs.

DEQ recommendation and motion The Department of Environmental Quality recommends that the Environmental Quality Commission adopt the proposed amendments in attachment A to increase permit fees in chapter 340 of divisions 45 and 71 of the Oregon Administrative Rules.

Background and need for rulemaking In 2002, DEQ convened the Blue Ribbon Committee to recommend improvements to DEQ's water quality permit program. Committee membership included industry, environmental and local government representatives. In 2004, the committee published a report that included recommendations to sustain funding of the permit program through a two-phase fee increase in 2006 and 2008 to restore and add necessary staff, and an annual fee adjustment of no more than three percent to cover projected program costs. EQC adopted a three percent annual fee adjustment in 2007 and 2008. In 2009, projected program costs were lower due to mandatory furlough days and salary freezes; therefore, DEQ did not propose the annual fee adjustment that year.

Effect of rule EQC adoption of this rulemaking would increase all water quality permits by three percent except for suction dredge General Permit 700-PM. Administrative rule cannot change suction dredge permit fees, which are set in statute. DEQ projects actual permit program cost increases of 3.29 percent over the next year.

Commission authority EQC has authority to take this action under ORS 468.020 and 468.065.

Stakeholder involvement DEQ asked the Blue Ribbon Committee for input on the fee increase at a Jan. 25, 2010 meeting, and the fiscal impact statement, seen in attachment F, by an email sent March 11, 2010.

DEQ informed permit holders and stakeholders about the proposed rulemaking for permit fee increases, public hearings and the opportunity to comment. DEQ sent more than 3,700 postcards to water quality permit holders, and email notifications to more than 4,400 stakeholders and permit holders who elected to receive electronic water quality program updates.

Public comment DEQ held a public comment period April 26 through June 7, 2010, with public hearings in Bend, Medford and Portland. Attachment B contains public comments and DEQ's responses. DEQ sent notice to water quality permit holders at the beginning of the public comment period to ensure they had advance notice of the proposed fee increases and were aware of opportunities to comment on the rulemaking.

Next steps If the commission approves the proposed changes, DEQ will update the fee tables and website to reflect the increases, inform permit holders of the adopted fee increase through notices sent with monthly invoices and inform staff of the adopted fee increase including permit coordinators, all water quality staff and accounting staff.

Attachments

- A. Proposed rule revisions
- B. Summary of public comments and agency responses
- C. Blue Ribbon Committee membership
- D. Presiding Officer's report on public hearings
- E. Relationship to federal requirements questions
- F. Statement of Need and Fiscal and Economic Impact
- G. Land Use Evaluation Statement

Available upon Request

- 1. Legal Notice of Hearing
- 2. Cover memorandum from Public Notice
- 3. Written comment received
- 4. Rule implementation plan
- 5. Blue Ribbon Committee Report on Key Enhancements to the Oregon Wastewater Permitting Program (2004)

Approved:

Division: _____

Section: _____

Report prepared by: Christopher Clipper
Phone: (503) 229-5656

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 70-A through 70-H are effective September 1, 2010.

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	\$46,936 <u>48,344</u>	\$11,791 <u>12,145</u>	\$23,431 <u>24,134</u>	\$821 <u>846</u>	\$747 <u>6</u>
Tier 2	\$9,445 <u>9,728</u>	\$2,997 <u>3,087</u>	\$4,683 <u>4,823</u>	\$821 <u>846</u>	\$747 <u>6</u>
Special WPCF Permits issued pursuant to OAR 340-045-0061	\$448 <u>461</u>	N/A	N/A	N/A	\$747 <u>6</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	\$16,412,904 <u>\$16,904</u>	N/A	\$15,232,689 <u>\$15,689</u>	N/A
	Food or beverage processing - includes produce, meat, poultry, seafood or dairy for human, pet, or livestock consumption				
B02	Washing or Packing only	N/A	\$2,282,350 <u>\$2,350</u>	N/A	\$2,098,161 <u>\$2,161</u>
B03	Processing – small. Flow ≤ 0.1 mgd, or 0.1 < flow < 1 mgd for less than 180 days per year	N/A	\$3,411,513 <u>\$3,513</u>	N/A	\$3,227,324 <u>\$3,324</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	\$4,813,597 <u>\$4,597</u>	N/A	\$4,630,769 <u>\$4,769</u>
B05	Processing – large. Flow ≥ 1 mgd for 180 or more days per year.	\$16,412,904 <u>\$16,904</u>	\$14,421,854 <u>\$14,854</u>	\$15,232,689 <u>\$15,689</u>	\$14,236,663 <u>\$14,663</u>
	Primary smelting or refining				
B06	Aluminum	\$16,412,904 <u>\$16,904</u>	\$14,421,854 <u>\$14,854</u>	\$15,232,689 <u>\$15,689</u>	\$14,236,663 <u>\$14,663</u>
B07	Non-ferrous metals utilizing sand chlorination separation facilities	\$16,412,904 <u>\$16,904</u>	\$14,421,854 <u>\$14,854</u>	\$15,232,689 <u>\$15,689</u>	\$14,236,663 <u>\$14,663</u>
B08	Ferrous and non-ferrous metals not elsewhere classified	\$9,386,668 <u>\$9,668</u>	\$7,393,615 <u>\$7,615</u>	\$8,206,452 <u>\$8,452</u>	\$7,210,426 <u>\$7,426</u>
B09	Chemical manufacturing with discharge of process wastewater	\$16,412,904 <u>\$16,904</u>	\$14,421,854 <u>\$14,854</u>	\$15,232,689 <u>\$15,689</u>	\$14,236,663 <u>\$14,663</u>
B10	Cooling water discharges in excess of 20,000 BTU per sec	\$9,386,668 <u>\$9,668</u>	\$7,393,615 <u>\$7,615</u>	\$8,206,452 <u>\$8,452</u>	\$7,210,426 <u>\$7,426</u>
	Mining Operations – includes aggregate or ore processing				
B11	Large (over 500,000 cubic yards per year or involving chemical leaching)	\$16,412,904 <u>\$16,904</u>	\$14,421,854 <u>\$14,854</u>	\$15,232,689 <u>\$15,689</u>	\$14,236,663 <u>\$14,663</u>
B12	Medium (100,000 to 500,000 cubic yards per year)	N/A	\$5,049,200 <u>\$5,200</u>	N/A	\$4,865,011 <u>\$4,011</u>
B13	Small (less than 100,000 cubic yards per year)	N/A	\$1,536,582 <u>\$1,582</u>	N/A	\$1,353,394 <u>\$1,394</u>

Type	Description	NPDES Tier 1	NPDES Tier 2	WPCF Tier 1	WPCF Tier 2
	All facilities not elsewhere classified which dispose of process wastewater (includes remediated groundwater)				
B14	Tier 1 sources	\$16,412 <u>16,904</u>	N/A	\$15,232 <u>15,689</u>	N/A
B15	Tier 2 sources	N/A	\$3,177 <u>3,272</u>	N/A	\$2,994 <u>3,084</u>
B16	All facilities not elsewhere classified which dispose of non-process wastewaters (for example: small cooling water discharges, boiler blowdown, filter backwash)	N/A	\$2,126 <u>2,190</u>	N/A	\$1,943 <u>2,001</u>
B17	Dairies, fish hatcheries and other confined feeding operations on individual permits	N/A	\$1,861 <u>1,917</u>	N/A	\$1,678 <u>1,728</u>
B18	All facilities which dispose of wastewater only by evaporation from watertight ponds or basins	N/A	N/A	N/A	\$1,234 <u>1,271</u>
	Timber and Wood Products				
B19	Sawmills, log storage, instream log storage	\$4,603 <u>\$4,741</u>	\$2,612 <u>\$2,690</u>	\$3,424 <u>\$3,527</u>	\$2,427 <u>\$2,500</u>
B20	Hardboard, veneer, plywood, particle board, pressboard manufacturing, wood products	\$4,868 <u>\$5,014</u>	\$2,877 <u>\$2,963</u>	\$3,689 <u>\$3,800</u>	\$2,694 <u>\$2,775</u>
B21	Wood preserving	\$4,118 <u>\$4,242</u>	\$2,126 <u>\$2,190</u>	\$2,939 <u>\$3,027</u>	\$1,943 <u>\$2,001</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	Not applicable	Tier 2	3,060 <u>\$3,152</u>	N/A	\$977 <u>\$1,006</u>		\$1,568 <u>\$1,615</u>	\$821 <u>\$846</u>
Lagoons that discharge to surface waters	Db	Flow < 1 mgd	Tier 2	\$6,044 <u>\$6,225</u>	\$1,172 <u>\$1,207</u>	N/A	Additional fees Include population and pretreatment fees. See tables 70D and 70E for determination of these fees.	\$3,060 <u>\$3,152</u>	\$821 <u>\$846</u>
	C2b	1 mgd ≤ Flow < 2 mgd	Tier 1	\$29,922 <u>\$30,820</u>	\$3,087 <u>\$3,180</u>	N/A		\$14,998 <u>\$15,448</u>	\$821 <u>\$846</u>
	C1b	2 mgd ≤ Flow < 5 mgd	Tier 1	\$29,922 <u>\$30,820</u>	\$4,232 <u>\$4,359</u>	N/A		\$14,998 <u>\$15,448</u>	\$821 <u>\$846</u>
	Bb	5 mgd ≤ Flow < 10 mgd	Tier 1	\$29,922 <u>\$30,820</u>	\$6,084 <u>\$6,267</u>	N/A		\$14,998 <u>\$15,448</u>	\$821 <u>\$846</u>
Treatment systems other than lagoons	Da	Flow < 1 mgd	Tier 2	\$6,044 <u>\$6,225</u>	\$1,663 <u>\$1,713</u>	\$1,543 <u>\$1,589</u>		\$3,060 <u>\$3,152</u>	\$821 <u>\$846</u>
	C2a	1 mgd ≤ Flow < 2 mgd	Tier 1	\$29,922 <u>\$30,820</u>	\$5,251 <u>\$5,409</u>	\$4,497 <u>\$4,632</u>		\$14,998 <u>\$15,448</u>	-\$821 <u>\$846</u>
	C1a	2 mgd ≤ Flow < 5 mgd	Tier 1	\$29,922 <u>\$30,820</u>	\$7,738 <u>\$7,970</u>	\$6,984 <u>\$7,194</u>		\$14,998 <u>\$15,448</u>	\$821 <u>\$846</u>
	Ba	5 mgd ≤ Flow < 10 mgd	Tier 1	\$29,922 <u>\$30,820</u>	\$11,507 <u>\$11,852</u>	\$10,753 <u>\$11,076</u>		\$14,998 <u>\$15,448</u>	\$821 <u>\$846</u>
	A3	10 mgd ≤ Flow < 25 mgd	Tier 1	\$29,922 <u>\$30,820</u>	\$17,949 <u>\$18,487</u>	N/A		\$14,998 <u>\$15,448</u>	\$821 <u>\$846</u>
	A2	25 mgd ≤ Flow < 50 mgd	Tier 1	\$29,922 <u>\$30,820</u>	\$38,083 <u>\$39,225</u>	N/A		\$14,998 <u>\$15,448</u>	\$821 <u>\$846</u>
	A1	≥ 50 mgd	Tier 1	\$29,922 <u>\$30,820</u>	\$64,798 <u>\$66,742</u>	N/A	\$14,998 <u>\$15,448</u>	\$821 <u>\$846</u>	
Septage alkaline stabilization facilities	F	Not applicable	Tier 2	\$821 <u>\$846</u>	N/A	\$336 <u>\$346</u>	N/A	\$372 <u>\$383</u>	

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 Stormwater Permits: MS4 Phase 1, Phase 2, and UIC Permits.	MS4-1	See 40 CFR §122.26	N/A	\$16,617 <u>\$17,116</u>	\$3,741 <u>\$3,853</u>	N/A	N/A	N/A	\$1,444 <u>\$1,487</u>
	MS4 -2		N/A	\$745 <u>\$767</u>	\$765 <u>\$788</u>	N/A	N/A	N/A	\$1,444 <u>\$1,487</u>
	UIC	As defined in 40 CFR parts 9, 144, 145 and 146	N/A	\$9,445 <u>\$9,728</u>	N/A	\$1,943 <u>\$2,001</u>	N/A	N/A	\$821 <u>\$846</u>

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+	\$87,056 <u>\$89,668</u>
400,000 to 499,999	\$66,598 <u>\$68,596</u>
300,000 to 399,999	\$46,140 <u>\$47,524</u>
200,000 to 299,999	\$25,681 <u>\$26,451</u>
150,000 to 199,999	\$20,770 <u>\$21,393</u>
100,000 to 149,999	\$13,680 <u>\$14,090</u>
50,000 to 99,999	\$8,581 <u>\$8,838</u>
25,000 to 49,999	\$3,856 <u>\$3,972</u>
15,000 to 24,999	\$2,195 <u>\$2,261</u>
10,000 to 14,999	\$1,430 <u>\$1,473</u>
5,000 to 9,999	\$870 <u>\$896</u>
1,000 to 4,999	\$261 <u>\$269</u>
100 to 999	\$49 <u>\$50</u>
0 to 99	\$0

Table 70E: Annual Pretreatment Fees

Pretreatment Fee	\$1,492 <u>\$1,537</u>
Significant Industrial User	\$498 <u>\$513</u> per industry

Table 70F: Technical Activity and Other Fees

Activity	Fee
New or substantially modified sewage treatment facility	\$6,866 <u>\$7,072</u>
Minor sewage treatment facility modifications and pump stations	\$747 <u>\$769</u>
Pressure sewer system or major sewer collection system expansion	\$523 <u>\$539</u>
Minor sewer collection system expansion or modification	\$149 <u>\$153</u>
New or substantially modified water pollution control facilities using alkaline agents to stabilize septage	\$747 <u>\$769</u>
Permit Transfer	\$74 <u>\$76</u>

Table 70G: General NPDES & WPCF Permits

Number	Type	Description	New Permit Application Fee ¹	Annual Fee
100-J	NPDES	Cooling water/heat pumps	\$192 <u>\$198</u>	\$435 <u>\$448</u>
200-J	NPDES	Filter Backwash	\$192 <u>\$198</u>	\$435 <u>\$448</u>
300-J	NPDES	Fish Hatcheries	\$304 <u>\$313</u>	\$435 <u>\$448</u>
400-J	NPDES	Log Ponds	\$192 <u>\$198</u>	\$435 <u>\$448</u>
500-J	NPDES	Boiler blowdown	\$192 <u>\$198</u>	\$435 <u>\$448</u>
600	WPCF	Offstream small scale mining – processing less than 5 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	\$192 <u>\$198</u>	\$0
700-PM	NPDES	Suction dredges ²	\$0	\$25
900-J	NPDES	Seafood processing	\$192 <u>\$198</u>	\$435 <u>\$448</u>
1000	WPCF	Gravel mining	\$192 <u>\$198</u>	\$435 <u>\$448</u>
1200-A ³	NPDES	Storm Water: Sand, gravel, and other non-metallic mining	\$745 <u>\$767</u>	\$765 <u>\$788</u>

1200-C ³	NPDES	Storm Water: Construction activities – 1 acre or more	\$745 <u>\$767</u>	\$765 <u>\$788</u>
1200-CA	NPDES	Storm Water: Construction activities performed by public agencies – 1 acre or more	\$745 <u>\$767</u>	\$765 <u>\$788</u>
1200-COLS ³	NPDES	Stormwater: industrial stormwater discharge to Columbia Slough	\$745 <u>\$767</u>	\$765 <u>\$788</u>
1200-Z ^{3,4}	NPDES	Storm Water: Industrial	\$745 <u>\$767</u>	\$765 <u>\$788</u>
1400-A	NPDES	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.	\$192 <u>\$198</u>	\$255 <u>\$263</u>
1400-B	WPCF	Wineries and small food processors not otherwise eligible for a 1400A general permit.	\$304 <u>\$313</u>	\$435 <u>\$448</u>
1500-A	NPDES	Petroleum hydrocarbon clean-up	\$304 <u>\$313</u>	\$435 <u>\$448</u>
1500-B	WPCF	Petroleum hydrocarbon clean-up	\$304 <u>\$313</u>	\$435 <u>\$448</u>
1700-A	NPDES	Vehicle & equipment wash water	\$424 <u>\$437</u>	\$435 <u>\$448</u>
1700-B	WPCF	Vehicle & equipment wash water	\$424 <u>\$437</u>	\$435 <u>\$448</u>
1900-J	NPDES	Non-contact geothermal heat exchange	\$424 <u>\$437</u>	\$435 <u>\$448</u>
		Other	\$424 <u>\$437</u>	\$435 <u>\$448</u>

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 \$100 for 5 years of registration 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

Disposal system plan review ¹	\$467 <u>\$481</u>
Site inspection and evaluation ¹	\$1,169 <u>\$1,204</u>
Permit Transfer	\$74 <u>\$76</u>

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 September 1, 2010.

Table 9D: <u>Permitting Fees for WPCF-Onsite septic sSystems permit fees.</u>						
		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		\$65 <u>\$67</u>	\$518 <u>\$534</u>	\$2,592 <u>\$2,670</u>		
Permit renewal (involving request for effluent limit modifications)		\$65 <u>\$67</u>	\$259 <u>\$267</u>	\$1,296 <u>\$1,335</u>		
Permit renewal (without request for effluent limit modifications)		\$65 <u>\$67</u>	\$130 <u>\$134</u>	\$648 <u>\$667</u>		
Permit modification (involving increase in effluent limitations)		\$65 <u>\$67</u>	\$259 <u>\$267</u>	\$1,296 <u>\$1,335</u>		
Permit modification (not involving an increase in effluent limits)		\$65 <u>\$67</u>	\$194 <u>\$200</u>	\$648 <u>\$667</u>		
For commercial facilities with a design capacity less than 600 gpd					\$0	
For commercial facilities with a design capacity of 600 - 1,000 gpd					\$248 <u>\$255</u>	
For commercial facilities with a design capacity of 1,001 - 1,500 gpd					\$292 <u>\$301</u>	
For commercial facilities with a design capacity of 1,501 - 2,000 gpd					\$335 <u>\$345</u>	
For commercial facilities with a design capacity of 2,001 - 2,500 gpd					\$378 <u>\$389</u>	
For commercial facilities with a design capacity of 2,501 - 3,000 gpd					\$443 <u>\$456</u>	

Table 9D: Permitting Fees for WPCF-Onsite septic sSystems 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
For commercial facilities with a design capacity of 3,001 - 3,500 gpd					\$486 <u>\$501</u>	
For commercial facilities with a design capacity of 3,501 - 4,000 gpd					\$529 <u>\$545</u>	
For commercial facilities with a design capacity of 4,001 - 4,500 gpd					\$572 <u>\$589</u>	
For commercial facilities with a design capacity of 4,501 - 5,000 gpd					\$616 <u>\$634</u>	
Commercial facilities with a design capacity greater than 5,000 gpd					\$648 <u>\$667</u>	
Single family dwelling					\$130 <u>\$134</u>	
Onsite sewage lagoon with no discharge						\$778 <u>\$801</u>
Treatment Standard 1 or better systems with design capacities less than 2,500 gpd						\$324 <u>\$334</u>
Treatment Standard 1 or better systems with design capacities of 2,501 - 20,000 gpd						\$648 <u>\$667</u>
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 the department.						\$259 <u>\$267</u>
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						\$27 <u>\$28</u>
Other systems with design capacities less than 20,000 gpd						\$324 <u>\$334</u>
Other systems with design capacities greater than 20,000 gpd						\$648 <u>\$667</u>
Site Evaluation Confirmation	\$454 <u>\$468</u>					

Summary of public comment and agency response

Water Quality Permit Fee Increases

Prepared by: Christopher Clipper

Date: June 14, 2010

Comment period The public comment period opened April 26, 2010 and closed at 5 p.m. June 7, 2010. The Department of Environmental Quality held public hearings at 6 p.m. in Bend May 27, 2010; in Medford June 1, 2010; and in Portland June 2, 2010. One person attended the hearings, but did not present a comment. DEQ received 10 written comments by email or the United States Postal Service.

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

<i>Summary of comments and agency responses</i>		
From	Comment	DEQ response
1,2,3,4, 5,6,7,9, 10, 11,12, 13,14, 15,16, 17	The proposed increase in fees, during a downturn in the economy and combined with the cost of doing business, represents a hardship and is opposed.	Per ORS 468B.051, DEQ is proposing a three percent increase of water quality permit fees to address anticipated permit program cost increases. Keeping staffing levels constant, DEQ anticipates a 3.29 percent increase in program costs from July 2010 to June 2011, relative to costs from July 2009 to June 2010, which is greater than the maximum three percent annual increase allowed by law.
2,6,10, 11,12, 13,14, 15,16, 17	Water quality permit fees should be reduced.	DEQ does not anticipate lowering fees for water quality permits due to current and future permit program costs. The up-to-three percent permit fee increases are based on anticipated program costs which can include: personnel services (staff salaries, benefits), services and supplies (rent, utilities), capital outlay (computer upgrades), special payment to other agencies, and indirect services (management, business services).

8	DEQ should provide a web-based process for permittees to submit their annual data/reports. By using this process, DEQ should be able to lower annual fees.	DEQ is in the planning phase of a web-based portal that will accept reports electronically for NPDES Individual permits. The completion date for development of the portal is tentatively June 2012. The implementation of the portal will be a multi-year project, and begins after development is complete. DEQ will have the ability to adapt the NPDES Individual portal to other permit types (e.g. NPDES General Stormwater).
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<i>List of commenters and reference numbers</i>				
Reference Number	Name	Organization	City and State	Date comments received
1	Jo Ann Basso	Basso's Bighorn Bar and Grill LLC	Beatty, OR	4/28/10
2	Glenn Woodbury	Not provided	Not provided	4/29/10
3	Brett Loper	Stein Enterprises, Inc.	Grants Pass, OR	4/29/10
4	Al Johnston	Johnston Bros. Contracting Co.	Not provided	4/29/10
5	Jerry Page	Total Comfort Weatherization, Ltd.	Salem, OR	5/4/10
6	M. Kohler	Main Rock Products, Inc.	North Bend, OR	5/24/10
7	Richard Turanski	GloryBee Foods, Inc.	Not provided	6/3/10
8	Sam Carter	OnlineRME, LLC	Sutherlin, OR	6/4/10
9	Not legible	Portable Rock Production, Inc.	Pleasant Hill, OR	6/7/10
10	Mary McNatt	Not provided	Silverton, OR	6/7/10
11*	Not legible	Turner Gravel, Inc.	Not provided	6/7/10
12*	Not legible	Siegmond Excavation and Construction, Inc.	Not provided	6/7/10
13*	Not legible	Three Way Portable Crushing, Inc.	Not provided	6/7/10
14*	Not legible	Three Way Portable Crushing, Inc.	Not provided	6/7/10
15*	Not legible	KMT Creek Quarry	Not provided	6/7/10
16*	Not legible	Ken Leahy Construction, Inc.	Not provided	6/7/10
17*	Daniel Kauffman	D.K. Quarries, Inc.	Not provided	6/7/10

* Provided signatures in support of the letter from Commenter 10.

Blue Ribbon Committee membership

Name	Organization
Robert Austin, Mayor	City of Estacada
Ed Butts, P.E.	4B Engineering and Consulting LLC
Michael Campbell	Stoel Rives LLP
Jon Chandler	Oregon Homebuilders Association
Dorothy Sperry	Port of Portland
Teresa Huntsinger	Oregon Environmental Council
Gerald Linder	Clean Water Services
Kurt Harrington, PE	AMEC Earth & Environmental, Inc.
Daniel Eisenbeis	League of Oregon Cities
Kathryn Van Natta	Northwest Pulp & Paper
Travis Williams	Willamette Riverkeeper
John Ledger	Associated Oregon Industries
Mark Landauer	Special Districts
Janet Gillaspie	Assoc. Clean Water Agencies
Sean Ragain	GeoEngineers

Presiding Officer's report on public hearings

State of Oregon
Department of Environmental Quality

Memorandum

Date: June 15, 2010
To: Environmental Quality Commission
From: Eric Nigg, Heather Tugaw and Tiffany Yelton Bram, DEQ
Subject: Presiding Officer's report for rulemaking hearing
Title of proposal: Water quality permit fee increases

Hearing one

Hearing date and time: **May 27, 2010**, 6 p.m.
Hearing location: DEQ-Bend Office, **Bend, Oregon**

DEQ convened the rulemaking hearing on the proposal referenced above at 6 p.m. and closed it at 6:45 p.m. Two DEQ employees attended the hearing: Christopher Clipper as presenter and Eric Nigg as presiding officer. One other person attended, no testimony was given and no written comments were submitted at this hearing.

Hearing two

Hearing date and time: **June 1, 2010**, 6 p.m.
Hearing location: DEQ-Medford Office, **Medford, Oregon**

DEQ convened the rulemaking hearing on the proposal referenced above at 6 p.m. and closed it at 6:30 p.m. Two DEQ employees attended the hearing: Christopher Clipper as presenter and Heather Tugaw as presiding officer. No other persons attended, no testimony was given and no written comments were submitted at this hearing.

Hearing three

Hearing date and time: **June 2, 2010**, 6 p.m.
Hearing location: DEQ-Headquarters, **Portland, Oregon**

DEQ convened the rulemaking hearing on the proposal referenced above at 6 p.m. and closed it at 6:30 p.m. Two DEQ employees attended the hearing: Christopher Clipper as presenter and Tiffany Yelton Bram as presiding officer. No other persons attended, no testimony was given and no written comments were submitted at this hearing.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Relationship to Federal Requirements

RULE CAPTION

This rulemaking increases water quality permit fees by three 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 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. This rulemaking does not alter any permit requirements besides 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 three percent to address increasing permit program costs.

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	2010 Water Quality Permit Fee Increase. Proposed changes affect Divisions 45 and 71.
Statutory authority or other legal authority	ORS 468.020 and 468.065
Statutes implemented	ORS 468.065, 468B.035 and 468B.051
Need for the rule(s)	<p>State law (ORS 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 three percent. Permit fees will increase by three percent for all 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.</p> <p>Through this rulemaking, DEQ seeks approval from EQC for an annual fee increase of three percent for DEQ’s water quality permit program. 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 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 (ORS 468B.051). The annual fee increase, approved by EQC in June 2007 and June 2008, helps cover the anticipated increase in permit program costs.</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 2009-2011 Legislatively Approved Budget • DEQ’s water quality permit database • Application and annual fee invoice and revenue records • Oregon Revised Statutes (ORS) 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.

<p>Fiscal and economic impact, statement of cost compliance</p>																
<p>Overview</p>	<p>The impact of the fee revenue increase is described below. DEQ will notify all permit holders of the proposed fee increases prior to EQC adoption of the changes. Permit holders can incorporate the fee increase information in their annual budget and operations planning.</p> <p>As a result of this rulemaking, fees will increase by three percent for all NPDES and WPCF permits, including WPCFOS and stormwater permits. Suction dredge permit fees will not increase through this rulemaking. Suction dredge permit fees are set in statute and can only be changed by the legislature.</p> <p>To establish the amount of the proposed annual increase for FY 2010-2011 (July 1, 2010-June 30, 2011), DEQ analyzed expected cost increases for FY 2010-2011 relative to the cost structure for FY 2009-2010, keeping staffing levels constant. Although certain cost saving measures, such as mandatory unpaid furlough days, will continue at the same level in FY 2010-2011 as FY 2009-2010, DEQ expects two areas to increase in cost during FY 2010-2011 relative to FY 2009-2010. The first is associated with a staff salary increase negotiated in 2007, for which implementation has been delayed until September 1, 2010. Upon implementation, salaries will increase by 4.75 percent for most staff. The second is ongoing inflation on services and supplies, which is estimated at 1.4 percent for FY 2010-2011. The combined effect of these two factors is an increase of 3.29 percent in program costs for FY 2010-2011.</p> <p>The budget categories that were analyzed are listed below, with brief explanation of what is included in each category.</p> <table border="1" data-bbox="456 1213 1498 1556"> <thead> <tr> <th>Budget category</th> <th>Percent of FY 2009-2010 cost structure</th> <th>Projected cost Increase FY 2010-2011</th> </tr> </thead> <tbody> <tr> <td>Personnel services (staff salaries, benefits)</td> <td>74.1%</td> <td>3.55%</td> </tr> <tr> <td>Services and supplies (rent, utilities)</td> <td>11.8%</td> <td>1.40%</td> </tr> <tr> <td>Indirect services (management, business services)</td> <td>14.1%</td> <td>3.55%</td> </tr> <tr> <td>Total</td> <td>100%</td> <td>3.29%</td> </tr> </tbody> </table> <p>The total projected increase of 3.29 percent is greater than the maximum three percent annual increase allowed by law (ORS 468B.051) for anticipated increases in the cost of administering the permit program, therefore the fee increase proposed by DEQ is three percent.</p> <p>The fee increase will impact approximately 5,100 permit holders. Depending upon the permit, application fee increases will range from \$6 to \$1,408 and annual fee increases will range from \$1 to \$2,612.</p>	Budget category	Percent of FY 2009-2010 cost structure	Projected cost Increase FY 2010-2011	Personnel services (staff salaries, benefits)	74.1%	3.55%	Services and supplies (rent, utilities)	11.8%	1.40%	Indirect services (management, business services)	14.1%	3.55%	Total	100%	3.29%
Budget category	Percent of FY 2009-2010 cost structure	Projected cost Increase FY 2010-2011														
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Total	100%	3.29%														
<p>Impacts on the</p>	<p>Though DEQ cannot determine the extent to which the fee increases will impact each</p>															

<p>general public</p>	<p>consumer, DEQ expects that the three percent fee increase, will have some impact on the public, primarily through an increase to the costs of good and services offered by permit holders.</p>	
<p>Impacts to small business (50 or fewer employees –ORS183.310(10))</p>	<p>For this section, DEQ used Oregon Employment Department information to calculate the impact of the proposed fee increases on small businesses. In 2006, OED found that 96 percent of Oregon businesses were small businesses (<50 employees).</p> <p>Although DEQ cannot determine the extent to which the fee increases will impact each permit holder, DEQ expects that the fee increase will have impact on small businesses.</p>	
<p>Cost of compliance on small business (50 or fewer employees – ORS183.310(10))</p>	<p>a) Estimated number of small businesses subject to the proposed rule</p>	<p>DEQ estimates that about 4,900 of 5,100 wastewater permit holders impacted by the three percent fee increase are small businesses.</p>
	<p>b) Types of businesses and industries with small businesses subject to the proposed rule</p>	<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, fish hatcheries, 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>
	<p>c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services</p>	<p>The proposed rules do not require additional reporting requirements.</p>
	<p>d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule</p>	<p>The proposed rules do not require additional equipment or administration requirements.</p>
	<p>e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking</p>	<p>The proposal to allow DEQ to seek an up-to-three-percent annual fee increase to account for program cost increases, came from the Blue Ribbon Committee. The Blue Ribbon Committee represented the wastewater community as a whole, and this includes small businesses.</p>

<p>Impacts on large business (all businesses that are not "small businesses" under ORS183.310(10))</p>	<p>DEQ estimates the fee increase will impact approximately 200 large businesses, and that for these businesses, the fee increase is small compared to the overall yearly operating costs of permit holders.</p>
<p>Impacts on local government</p>	<p>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).</p> <p>This rulemaking will increase water quality permit fees by 3percent for 302 local governments that hold about 680 permits.</p>
<p>Impacts on state agencies other than DEQ</p>	<p>Eighteen Oregon state agencies hold about 130 water quality permits; additionally, one Washington state agency holds a permit. Annual fee increases range from \$13 for the NPDES General 300 fish hatchery permit (30 permits) to \$95 for an NPDES-B15 industrial wastewater processing permit (4 permits).</p>
<p>Impacts on DEQ</p>	<p>The proposed three percent fee increase will generate approximately \$150,000 to cover increased water quality program costs. Permit fees are designed to cover 60 percent of the program costs, while other public funds are designed to cover the remaining 40 percent of costs. Based on the 2009-2011 Legislatively Approved Budget, the split is approximately 40.6 percent for general and federal funds and 59.4 percent for permit fees when considering the permit fee increase in this rulemaking.</p>
<p>Assumptions</p>	<p>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.</p>
<p>Housing costs</p>	<p>DEQ has determined that this proposed rulemaking will have the following effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single-family dwelling on that parcel. A three percent increase for construction stormwater permit fees will raise the initial fee (application fee plus first year annual fee) from \$1510 to \$1555, and the annual permit cost (starting with year two of the permit) from \$765 to \$788. While the increased application fee will not likely have significant impact on new housing projects, increased annual fees could impact existing projects by affecting construction costs that have already been agreed upon between a builder or developer and the buyer. DEQ estimates that many home builders will likely pass the permitting cost increase to home buyers, who would need to pay the additional costs.</p>
<p>Administrative rule advisory committee</p>	<p>The proposal to allow DEQ to seek an up-to-three-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 represents the wastewater community as a whole, and it has reviewed this fiscal impact statement.</p>

Prepared by

Christopher Clipper

Printed name

Date

Approved by DEQ Budget Office

James Roys

Printed name

Date

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Land Use Evaluation Statement

Rulemaking proposal
for
Water quality permit fee increases

RULE CAPTION

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

1. Explain the purpose of the proposed rules.

The following proposed fee increase will affect National Pollutant Discharge Elimination System, Water Pollution Control Facility and WPCF-onsite septic system permit holders.

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 3.29 percent increase in program costs between July 2010 and June 2011, relative to costs from July 2009 to June 2010, which is greater than the maximum three percent annual increase allowed by law (ORS 468B.051). DEQ proposes increasing water quality permit fees by three percent for Fiscal Year 2010-2011 to help cover the increased costs.

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 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 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 an NPDES or WPCF permit.

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

Staff should refer to Section III, subsection 2 of the State Agency Coordination Program 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 DEQ'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.