

Date: June 30, 2025

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Agenda item I, Informational item: Onsite Wastewater Management Program 2025 Rulemaking
July 10-11, 2025, EQC meeting

Purpose of item DEQ will brief the commission on the Onsite Wastewater Management Program 2025 Rulemaking that is planned to come before the EQC as an action item in September 2025.

Prior EQC involvement The Environmental Quality Commission has not previously reviewed or taken action specific to this proposed rule revision. Onsite staff will provide a summary of the current rulemaking process and key proposals.

Background Approximately 30% of Oregonians dispose of wastewater from their homes and businesses through the use of septic systems. The siting, design, installation, and ongoing operation and maintenance of septic systems are regulated through DEQ's Onsite Wastewater Management Program (Onsite Program). Proper siting, installation and maintenance ensure minimal impacts to public health and water quality. This is a state-based program with no direct EPA standards for the state to follow. The state first established statewide rules in 1972, and DEQ was delegated authority in 1974 to oversee the program.

DEQ currently implements the permitting program directly in Curry, Josephine, and Jackson counties and has Intergovernmental Agreements with the other 33 counties in Oregon to implement the program at a local level. DEQ's Onsite Program also licenses onsite system installers and pumpers, as well as oversees the certification of installers and maintenance providers.

DEQ initiated this rulemaking in 2024 in response to the 2023 legislative session, which included bills related to Accessory Dwelling Units (ADUs) and sewer availability. Additional topics are being included in this rulemaking to address programmatic and industry needs and recommendations, as well as efforts initiated in 2019 for rulemaking that were halted due to several factors at the time. The last significant rule changes to this program were in 2014, which expanded maintenance requirements for more complex septic systems and established minimum standards for existing system evaluations, mainly used at the time of a property sale.

Proposed rule changes The proposed rules will cover six main topics: sewer availability, ADUs, operation and maintenance, nutrient loading and treatment, variances and housekeeping.

Senate Bill 931 (2023) authorizes the EQC to adopt rules for determining whether a community or area-wide sewerage system is available for the purposes of denying or approving a septic construction, installation, alteration, or repair permit. The draft rules address this by reducing the distance to the sewer for existing development when a connection is required, clarifying that the lot is in an area designated for future urbanization, and identifying factors that a local municipality may consider when determining if the sewer is legally available. DEQ's onsite rules on this topic relate solely to whether a septic system permit application must be denied. DEQ does not have the authority to require a sewer connection.

Senate Bill 835 (2023) directs the EQC to adopt rules for approving the permanent connection of an ADU located on the same lot or parcel as a single-family dwelling to the same subsurface sewage disposal system or alternative sewage disposal system. The draft rules provide definitions of what an ADU is and the system sizing requirements for adding an ADU to a new or existing system. DEQ's current policies regarding ADUs are essentially the same as the proposed rules, but the rules will make the process more transparent.

Septic system maintenance is critical for minimizing risks to public health and the environment. Complex septic systems include filters, aeration, pressurized pipes, ultraviolet (UV) lights and pumps that require ongoing maintenance and oversight to ensure proper function. These systems include alternative treatment technologies (ATT), sand filters, pressurized seepage beds and pressurized distribution systems, which are often sited in sensitive areas with shallow aquifers, near water bodies, or in higher-density (small-lot) areas. The draft rules provide greater clarity on roles and responsibilities to ensure consistent maintenance statewide, establish minimum maintenance requirements, update enforcement penalties, and facilitate efficient operation of the Onsite Program.

Nutrient discharge from onsite systems remains an important issue in Oregon. Onsite rules regarding the siting of systems are based solely on the conditions of a particular lot and not the geographic area as a whole. Coastal lakes with nutrient issues and groundwater management areas are examples of places where nutrient loading is a known concern and can be exasperated by inadequate onsite systems. The proposed rule change allows an agent to consider these geographic challenges when evaluating a site for the suitability of a septic system. The current rule already provides the agent the ability to be stricter than the rules, so this rule change adds additional transparency.

Variances are typically requested when a lot has been denied for any type of septic system due to prescriptive standards that cannot be met, such as lot size, depth to groundwater, or some other limitation. The proposed rule changes clearly state that any variance proposal must be at least as protective as if the existing standards were strictly adhered to. The rule changes also change how variance denials may be appealed. The current rules direct appeals of denials to circuit court, and the rule change would change this to an administrative hearing process. Appeals are rare, and circuit court challenges are costly for the appellant and the Onsite Program, which is primarily fee-based and

does not account for these added expenditures.

The scope of this rulemaking also includes housekeeping and minor changes to clarify rules, update verbiage to incorporate plain language, remove outdated terms and regulations, and modernize, clarify, and enhance existing rule language to align with industry standards and public and environmental health protection.

DEQ worked collaboratively with a wide range of partners throughout this rulemaking, including a Rule Advisory Committee that represented local governments, onsite system professionals, environmental organizations, and local industry. These partners provided detailed feedback on the draft rule language and have helped DEQ understand the real-world implications of the proposed changes.

This rulemaking supports multiple DEQ strategic goals. It enhances environmental and public health protection by ensuring wastewater is treated and disposed of safely. It modernizes the program by embracing new technologies and allowing for innovation in system design and operation. It advances equity by improving access to clear and understandable regulations and seeking out diverse perspectives in the rule development process. It also strengthens partnerships by fostering collaboration between state and local governments, encouraging shared problem-solving. Ultimately, this rulemaking is about building a stronger, more effective, and more adaptable regulatory foundation for the onsite wastewater management program, one that serves Oregon's communities today while preparing the state for the challenges of tomorrow.

Key issues

Sewer availability

Sewer availability is considered during the onsite system permitting process. Distance to a sewer alone is not a deciding factor in determining sewer availability, but it is considered when evaluating the physical availability of a connection. Municipalities and sewer authorities also play a role in deciding sewer availability. For that reason, how sewer availability is determined varies across the state. In some parts of the state, the community sewer systems are at capacity. In others, the sewer may be a relatively short distance from a property, but the existing underground infrastructure can significantly impact the cost of extending the system, making connecting to the sewer impractical. Furthermore, many cities have local standards or ordinances they use to determine legal availability, which may or may not include a distance component.

The Rules Advisory Committee spent a significant amount of time discussing this particular issue. The rules regarding sewer availability have been largely unchanged for 50 years and many local ordinances mirror DEQ's sewer availability rule. Given the breadth and diversity of committee member interests, there was a wide-ranging spectrum of opinions and positions. Some members advocated that the department should focus primarily on the interests of property owners and always allow septic repairs, while others advocated the department should focus on the interests of a municipality planning to expand service.

While simple rules are easiest and the most cost-effective to implement, determining the actual cost of installing a septic system versus connecting to a sewer is complex and depends on a variety of site-specific considerations.

Considering feedback from the committee and striving for balance, DEQ's draft rules:

- Limit sewer availability rule consideration to areas where the property is within a city, urban growth boundary, or within a sewer district, as this is where a municipality is urbanizing and owning property in that area.
- Reduce the distance requirement for existing properties that require a repair or alteration to their septic system from 300 feet to 200 feet, recognizing that distance is an imperfect proxy for the cost of connecting to a sewer system and that connecting to a sewer system can be burdensome compared to the cost of repairing a system.
- Provide factors for municipalities to consider when determining whether they will require sewer connections. The Onsite Program does not have a role outside of determining whether to issue or deny a septic system permit application. However, the municipality has the authority to require sewer connection and are the entity that determines when its sewer has capacity. They may also be eligible for financial assistance for sewer connections.

System maintenance

The onsite rules first required certified maintenance providers to submit annual reports in 2005. Prior to these rules, there was no annual reporting requirement. In 2014, rules were updated expanding the types of systems that require annual reports. In the 20 years since the original rules, there have been 25,000 systems added statewide with requirements for annual maintenance and reporting. Compliance with these reporting requirements varies significantly across the counties with delegated authority.

Amidst the growing complexity of annual reporting requirements, several local onsite entities formed a task force with DEQ participation to improve the success of this important work statewide. Maintenance providers are also key partners and were invited to assist as well. That process resulted in several recommendations related to operation and maintenance of septic systems that were subsequently incorporated into the current rulemaking process.

In addition to clarification amendments, the draft rules create a new section of rules to consolidate all the applicable maintenance requirements that are currently dispersed across Division 71.

Housekeeping

The draft rules include several house-keeping changes. Two of the more significant house-keeping changes are:

- Delete 340-071-0115: This removes the requirement for DEQ to convene a standing technical advisory committee. In the 1990's, many states added a standing committee of technical experts to advise the department on new septic system technologies that were being developed. With this change, DEQ can instead convene a committee as needed to consider new products rather than have a standing committee of people with a diverse set of industry backgrounds and statewide representation for three-year terms (as the rule currently requires). Maintaining a standing committee requires a lot of resources and the demand for consultation ebbs and flows.
- Delete 340-073-0041: This relates to the use of filter fabric in sand filter systems. This rule is now irrelevant due to evolving technologies and system

types.

EQC involvement DEQ intends to bring proposed rule changes to the commission for consideration at the September 2025 EQC meeting.

Supporting materials Attachment A: Rulemaking Notice
Attachment B: Rule Concept: Accessory Dwelling Units
Attachment C: Rule Concept: Sewer Availability
Attachment D: Rule Concept: Variances
Attachment E: Rule Concept: Operation and Maintenance Program
Attachment F: Rule Concept: Nutrient and Nitrate Loading and Treatment
Attachment G: Rule Concept: Housekeeping

Report prepared by:
Kyle Nelson, Onsite Rulemaking Specialist
Sean Rochette, Onsite Program Manager
Onsite Wastewater Management Program

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800-452-4011 | TTY: 711 | deqinfo@deq.oregon.gov

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