



State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission Meeting

Sept. 11-12, 2025

Rulemaking Action Item C Onsite Wastewater Management Program 2025

Table of Contents

Recommendation	2
Overview	3
Statement of need	4
Federal relationship	9
Rules affected, authorities, supporting documents	10
Fee analysis	12
Statement of fiscal and economic impact	13
Racial equity	20
Environmental justice considerations	21
Land use	22
EQC prior involvement	23
Advisory committee	24
Public engagement	26
Implementation	32
Five-year review	33
Non-discrimination statement	35

Translation or other formats

[Español](#) | [한국어](#) | [繁體中文](#) | [Русский](#) | [Tiếng Việt](#) | [العربية](#)
800-452-4011 | TTY: 711 | deqinfo@deq.oregon.gov

Recommendation

The Oregon Department of Environmental Quality recommends the Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

Language of proposed EQC motion:

“I move that the Environmental Quality Commission adopt the proposed rule amendments in Attachment A as part of chapter 340 of the Oregon Administrative Rules.”

Overview

The 2023 legislature passed two bills that are implemented in this rulemaking related to accessory dwelling units, commonly known as ADUs, and sewer availability. Senate Bill 835 focused on ADUs while Senate Bill 931 focused on sewer availability. Other rulemaking topics included are variances and the variance denial appeal process, nutrient and nitrate loading considerations, and operation and maintenance requirements. The scope of this rulemaking includes housekeeping edits to clarify rules, updating verbiage to incorporate plain language, removing outdated terms and regulations, and modernizing, clarifying, and enhancing existing rule language to align with industry standards and protect public and the environment. This rulemaking does not include any fee increases.

Statement of need

Proposed rule or topic	Discussion
Sewer availability	
What need would the proposed rule address?	The proposed rule addresses the need to establish clearer, more practical criteria for determining the availability of sewerage systems when considering onsite wastewater (septic) permit applications and when they must be denied due to the location of a sewer connection. Previously, rules were based on physical availability without regard to existing development or proximity to urbanization, and legal availability without identifying clear authority or process.
How would the proposed rule address the need?	The proposed rule addresses the need by refining the definition of sewer availability. Under physical availability, it establishes new distance criteria based on the type of permit being requested. For single-family dwelling construction and installation permits, typically associated with new development, the sewer connection must be within 300 feet of the property, while for repair or alteration permits, the connection must be within 200 feet. This updated threshold helps balance environmental and public health priorities while considering prohibitive costs to property owners. The rule also clarifies the role of local municipalities in determining legal availability and provides broad guidance on factors to consider when drafting local ordinances.
How will DEQ know the rule addressed the need?	DEQ will continue to solicit feedback from applicants, local municipalities, installers, county agents, and others to determine if the updated rule makes it easier for property owners to understand and comply with requirements without unnecessary cost or delay.
Accessory dwelling units	
What need would the proposed rule address?	The proposed rule addresses the need for clear, consistent, and protective regulations for connecting accessory dwelling units to existing onsite septic systems. Until now, Oregon Administrative Rules have not defined ADUs or provided specific onsite wastewater system requirements for them, leading to inconsistent

	implementation by regulators and uncertainty for property owners. With the legalization of rural ADUs through Senate Bill 391 and the directive from Senate Bill 835 requiring EQC to adopt rules related to septic systems serving ADUs, there is a critical need to ensure onsite wastewater systems safely and properly serve these additional residential units.
How would the proposed rule address the need?	The rule changes establish a clear definition of ADUs within DEQ's onsite wastewater regulations and provide statewide consistency in determining septic system requirements when an ADU is added to a property. The proposed rules revise key sections to define ADUs, standardize sizing criteria, and clarify when a site evaluation or system upgrade is required. These revisions enable regulators to evaluate ADU projects using transparent standards while ensuring that septic systems are appropriately sized to handle increased wastewater volumes.
How will DEQ know the rule addressed the need?	DEQ will know the rule changes are effective if they result in more consistent decision-making and implementation across jurisdictions regarding ADU septic system approvals. Success can also be measured by the reduction in regulatory confusion, technical assistance, and appeals or disputes over ADU sizing requirements, as well as feedback from regulators, installers, and property owners indicating clearer expectations and improved understanding.
Variances	
What need would the proposed rule address?	The proposed rule addresses the need for clearer guidance in the variance process, specifically to ensure that all variance proposals demonstrate protection of public health and the environment. The rule aims to make the appeal process for denied variance requests more accessible and efficient. The current rules lack clarity on the requirement that a variance must still meet the underlying protective intent of the rules, and the existing appeal option for variance denials through judicial review in circuit court is costly and burdensome for both applicants and DEQ.
How would the proposed rule address the need?	The rule revisions explicitly state that a variance proposal must be at least as protective to public health and the environment as if strict compliance

	with the rule were adhered to, thus helping applicants understand this key requirement upfront. Additionally, denial appeals will shift from the circuit court to the Office of Administrative Hearings. This shift aligns the variance appeal process with other DEQ Water Quality permitting programs, streamlines administrative proceedings, reduces costs, and enables decisions to be made by judges experienced in administrative law.
How will DEQ know the rule addressed the need?	DEQ will know the rule is effective if there is an improvement in the quality and completeness of variance applications, particularly if submitted proposals make explicit design considerations to be protective of public health and the environment when prescriptive standards cannot be met. For variance denial appeals, the successful transition of appeal cases to the Office of Administrative Hearings, with reduced legal costs and quicker resolutions, will indicate that the revised appeal process is functioning as intended.
Operation and maintenance (O&M)	
What need would the proposed rule address?	The proposed rule addresses the need to modernize and clarify the operation and maintenance (O&M) requirements for higher treatment onsite wastewater systems in Oregon. As the number of these systems increases, clear, enforceable rules are essential to ensure these complex systems are maintained properly to protect public health and the environment. Existing rules are outdated, fragmented, and unclear in key areas such as maintenance responsibilities, required inspections, and compliance mechanisms, thus resulting in inconsistent implementation and oversight of the O&M program.
How would the proposed rule address the need?	The proposed rule creates a new consolidated section (OAR 340-071-0132) for O&M requirements, simplifying access to critical information and reducing confusion among property owners, maintenance providers, and regulators. It clarifies roles and responsibilities for submitting reports and fees, specifies minimum maintenance requirements, and establishes penalties for non-compliance. The rule also standardizes contract requirements, requires ongoing service contracts, and mandates critical

	inspections like system start-ups. These updates close regulatory gaps, reduce administrative burden, and provide regulators with clear authority to ensure systems are being maintained and functioning as intended.
How will DEQ know the rule addressed the need?	DEQ will measure the effectiveness of the rule through tracking compliance rates, reduced confusion among interested parties, and fewer complaints regarding unclear responsibilities or enforcement inconsistencies. Indicators of success will include timely submittal of annual inspection reports and fees, fewer reports of prematurely failed systems, and fewer complaints about insufficient service and improper maintenance. Additionally, regulators will track enforcement actions, system performance issues, and feedback from maintenance providers and property owners. This information will help evaluate whether the rule revisions have streamlined program administration and improved protection of public and environmental health.
Nutrient and nitrate loading and treatment	
What need would the proposed rule address?	The proposed rule addresses the need to explicitly consider and mitigate nutrient loads from onsite septic systems to be protective of public health and the environment. Currently, Oregon Administrative Rules do not directly address nutrient or nitrate loading, despite the known public health and ecological risks that nutrient and nitrate pollution can cause. Areas with sensitive groundwater and surface water resources, such as coastal lakes, Southern Deschutes County, and groundwater management areas (GWMAs), are especially vulnerable to impacts from nutrient and nitrate loading. Clear and direct rule language on this topic will provide onsite program agents with the specific tools needed to adequately evaluate and manage nutrient and nitrate pollution risks during the site evaluation and permitting processes.
How would the proposed rule address the need?	The proposed rule amends sections OAR 340-071-0220 and OAR 340-071-0345 to include provisions that explicitly authorize DEQ and local agents to consider nitrate and nutrient loading in the review of onsite septic system applications. These changes provide clear authority to require

	<p>additional system design considerations or alternative treatment technologies (ATTs) that offer enhanced nitrogen reduction, especially in environmentally sensitive areas. By moving beyond the general language of existing rules, the proposed revisions empower agents to take site-specific actions that reduce the risk of pollution and public health hazards posed by nutrient loading.</p>
<p>How will DEQ know the rule addressed the need?</p>	<p>DEQ will evaluate the effectiveness of the rule by soliciting feedback from regulators, installers, property owners, other interested parties, and DEQ's groundwater protection program about its implementation in areas identified as sensitive to nutrient or nitrate pollution, such as GWMA's and coastal lake regions. The feedback from these parties will aid in assessing whether the rule has provided the clarity to manage nitrate-related risks through the onsite program better. Success indicators will include the increased use of nitrogen-reducing treatment systems in these sensitive areas, improved groundwater and surface water quality data where available, and more consistent application of nutrient and nitrate-related criteria in permitting decisions.</p>

Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and regulations unless there are reasons not to do so.

The federal government does not have laws that directly apply to onsite septic systems. There is no corresponding federal regulation. Onsite septic systems are regulated by states, tribes, and local governments, not the federal government. DEQ's Onsite Wastewater Management Program is authorized by state statutes, ORS 454, 468, and 468B. However, EPA has published several technical guidance documents related to the operation of onsite septic systems and DEQ's existing onsite septic system evaluation rules were developed to help satisfy Oregon's coastal nonpoint pollution requirements.

Rules affected, authorities, supporting documents

Lead division

Water Quality

Program or activity

Onsite Wastewater Management

Chapter 340 action

Adopt				
340-071-0132				
Amend				
340-071-0100	340-071-0130	340-071-0135	340-071-0140	340-071-0150
340-071-0155	340-071-0160	340-071-0162	340-071-0170	340-071-0175
340-071-0185	340-071-0205	340-071-0210	340-071-0215	340-071-0220
340-071-0260	340-071-0265	340-071-0275	340-071-0280	340-071-0290
340-071-0295	340-071-0302	340-071-0310	340-071-0340	340-071-0345
340-071-0360	340-071-0400	340-071-0415	340-071-0430	340-071-0440
340-071-0520	340-071-0600	340-071-0650	340-071-0800	340-073-0025
340-073-0026	340-073-0030	340-073-0035	340-073-0040	340-073-0050
340-073-0055	340-073-0056	340-073-0060	340-073-0075	340-073-0085
Repeal				
340-071-0115	340-073-0041			

Statutory authority – ORS				
468.020	468.065	454.625	183.335	468B.010
468B.020	454.615			

Statutes implemented – ORS				
454.605	454.615	454.779	454.655	454.695
468B.050	468B.055	468B.080	454.607	454.784
468.035	468.045	468.065	454.745	454.755
468B.015	468.070	454.675	454.665	454.775

454.610	454.657	454.660	454.662	454.625
468.020	454.725			

Legislation

Senate Bill 931 (2023)

Senate Bill 835 (2023)

Documents relied on for rulemaking

Document title	Document location
La Pine National Demonstration Project	https://www.deschutes.org/cd/page/la-pine-national-demonstration-project
Evaluation of Approaches for Managing Nitrate Loading from On-Site Wastewater Systems near La Pine, Oregon	https://pubs.usgs.gov/sir/2007/5237/

Fee analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Below are the expected fiscal impacts for the Onsite Wastewater Management Program 2025 rulemaking for state agencies, local governments, the public, small businesses, and large companies.

Fiscal and economic impact

The proposed rules are intended to improve clarity, transparency, and efficiency, with most sectors experiencing little to no fiscal impact. While some local governments and businesses may experience slight fiscal benefits from streamlined processes due to updated O&M rules and minor housekeeping changes, other changes may result in additional costs for noncompliant property owners or for small businesses conducting existing system evaluations under a National Association of Wastewater Technicians (NAWT) accreditation that will require an additional sewage disposal license now. DEQ expects minimal fiscal impacts except for shifting variance appeals to a contested case hearing; however, due to variance appeals being rare occurrences, DEQ does not expect a significant fiscal impact over time. The rules provide transparency in areas, such as ADUs and nutrient loading, with little to no impacts on costs for property owners. Overall, the changes aim to balance the needs of the public, local governments, businesses, and DEQ while promoting more effective rules.

Statement of cost of compliance

State agencies

Other than DEQ, state agencies will be impacted similarly to the public, as they will interact with the rules as a customer. For example, the Oregon Parks and Recreation Department would apply for onsite septic permits just the same as a member of the public.

Many of the proposed rule changes have no fiscal impact on DEQ, such as removing or updating technology standards and changes that add transparency to current practices. Some rule changes may have a minimal fiscal impact. For example, in cases of ongoing noncompliance, the proposed changes include accessing the existing 'compliance recovery fee' to recoup some of the costs associated with the additional time spent on O&M enforcement. Eliminating the Technical Review Committee will save DEQ time spent maintaining a standing committee and will allow DEQ to devote limited resources to forming tailored committees to address relevant topics as needed. While rare, variance appeals associated with circuit court challenges are costly. The proposed rules to change the variance appeal process to contested case hearings are expected to have a positive fiscal impact on DEQ, with lower expected costs to defend decisions of the program that may be challenged. However, the change in process may result in more frequent variance denial appeals that could lead to fiscal impacts associated with

increased expenditures, primarily in the form of staff time. These potential impacts are not expected to outweigh the ones that are currently associated with the costs of the circuit court process.

Local governments

Impacts to local governments will be like those of the public.

Local governments implementing the onsite program, known as Contract Counties, may experience a minimal fiscal impact in the form of fewer fees collected. This is due to the expansion of the definition of “major maintenance” to include replacing a distribution or drop box, so these situations will no longer require a permit if performed by a licensed installer or certified maintenance provider. Changes to the O&M rules may increase annual reporting compliance, resulting in increased fee revenue. However, increased compliance will require increased administrative work to process reports received, which may cancel out any fiscal gains. The fiscal impacts of changes to sewer availability rules are unknown, as legal availability is determined by municipalities.

Public

Sewer availability: The onsite program rules outline when a septic permit may be denied if sewer is available. Proposed changes to physical availability could help some existing homeowners whose properties are within 200-299 feet of a sewer connection save money in the short term by opting for septic repairs or alterations instead of connecting to the sewer. Fiscal impacts are uncertain because legal availability depends on determinations by municipalities. Additionally, costs vary based on sewer connections and septic system types.

Accessory dwelling units: DEQ expects little to no fiscal impacts because the proposed rules mostly add transparency to how ADUs are currently addressed. One change that may benefit septic system owners is that the rules will allow agents to apply fees paid for Authorization Notices to site evaluation or construction-installation applications if the Authorization Notice application is denied, which will save applicants money in permitting fees.

Variances: The change for appealing a variance denial will have a fiscal impact with an expected reduction in the costs associated with challenging a denial decision. The current rules require appealing in circuit court, and the proposed rules include appealing to an administrative law judge through a contested case hearing, which is generally a less costly process. Additionally, DEQ is proposing to clarify in rule that a variance must be at least as protective as if strictly adhering to all the rules and standards that are designed to be protective of public health and the environment, which is common practice already. This change is expected to have little to no fiscal impact and may save applicants the cost of applying if they know upfront that their proposal is not going to be protective enough. Owners of septic systems approved through the variance process may experience increased expenses associated with changes made to the conditions of approval, such as ongoing sampling or reporting; however, the number of variance

approvals has historically been a very small fraction of the total number of annual onsite septic system approvals, so the number of people this may impact is relatively small.

Nutrient and nitrate loading and treatment: The proposed rule change may result in higher material costs in areas where nutrients and nitrates are a concern because technologies capable of higher nutrient removal may be associated with increased cost. Agents are already allowed under OAR 340-071-0130(1) to require more than the minimum standards in rule to protect public health and the environment, but the proposed rule change explicitly calls out nutrient and nitrate loading as a consideration. Therefore, fiscal impacts are expected to vary based on site-specific situations.

Operation and maintenance changes: Property owners not complying with the rules may face additional fiscal impacts through an additional 'compliance recovery fee,' up to the amount of the periodic inspection fee, currently set by DEQ at \$636.

Housekeeping: The proposed rule changes will have no fiscal impact on most, with some experiencing a positive impact by not having to pay for a permit in certain situations, such as replacing a distribution or drop box. This work will be defined as 'major maintenance' rather than requiring a permit, as long as the work is performed by a licensed installer or certified maintenance provider.

Large businesses – businesses with more than 50 employees

Impacts on large businesses will be minimal. High-Density Polyethylene, HDPE, manufacturers may experience a fiscal impact with the removal of plastic pipe limits that would have otherwise prohibited the use of HDPE pipe. HDPE is usually considered for larger projects where boring the pipe is cheaper than trenching.

Small businesses – businesses with 50 or fewer employees

Impacts on small businesses are expected to be minimal. There may be fiscal impacts in the form of additional costs to obtain a DEQ license for businesses that conduct existing system evaluations with a National Association of Wastewater Technicians (NAWT) certification only. DEQ is proposing to add a license requirement with that credential because there is currently no way for DEQ to enforce violations for those qualified solely through a NAWT certification to do septic evaluations that are usually conducted for real estate transactions. A new Sewage Disposal Service license currently costs \$512 and is valid for three years. Changes to O&M rules, such as removing term limits on contracts, are intended to reduce the staff time required by maintenance providers. However, the new requirement for maintenance providers to conduct start-up inspections before agents issuing Certificates of Satisfactory Completion may be an increase in workload and site visits for maintenance providers that don't already provide that service. DEQ does not know how many businesses don't already provide this service, so it is not possible to provide an accurate estimate of how businesses will be impacted. Likewise, the addition of annual reporting to the compliance recovery fee could impact maintenance providers that do not submit annual reports and fees on time, currently set by DEQ at \$60, but it is not possible to know how many businesses will be noncompliant.

ORS 183.336 Cost of Compliance Effect on Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

There are about 340 active certified maintenance providers in Oregon, and some small businesses may employ multiple maintenance providers, so DEQ estimates that about 275 small businesses may be impacted by changes to the O&M rules.

The number of small businesses applying for permits or otherwise subject to onsite rules varies by year and is not tracked separately from residential applications, so DEQ cannot quantify.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The changes to remove contract term limits and set a limit of three years for how long records must be maintained will save maintenance providers time in renewing contracts and tracking records. Otherwise, the proposed changes will have a neutral impact on reporting, recordkeeping and other administrative activities to comply with the proposed rules.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

DEQ does not expect an impact.

d. Describe how DEQ involved small businesses in developing this proposed rule.

Small businesses have been involved at various phases in developing the proposed rules. Several housekeeping changes were carried over from a rulemaking that was paused in 2019 and never carried through, which involved several small business representatives on the rulemaking committee. For this rulemaking, DEQ engaged a small group of maintenance providers to consider how rule changes may improve challenges with the O&M program. The proposed changes do not include the more significant changes suggested by the group of maintenance providers, as program staffing is limited and unable to implement larger changes. Lastly, the advisory committee for this rulemaking has representatives of small businesses and they have provided input.

Documents relied on for fiscal and economic impact

Document title	Document location
Oregon Revised Statute 454	oregonlegislature.gov/bills_laws/ors/ors454.html
Oregon Administrative Rules 340-071	secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1479

Oregon Administrative Rules 340-073	secure.sos.state.or.us/oard/displayDivisionRules.action ?selectedDivision=1481
--	--

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ asked for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 to reduce that impact.

The committee reviewed the draft fiscal and economic impact statement, and its findings are stated in the approved minutes dated Feb. 26, 2025.

The committee came to a consensus that the fiscal impact statement accurately reflects the expected costs and benefits at the Feb. 26, 2025, Rulemaking Advisory Committee meeting. The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would influence the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. Onsite systems are not typically used on lots of this size because it would be challenging to fit the onsite system and a 1,200-square-foot house on a 6,000-square-foot parcel, so the proposed rules are unlikely to broadly increase housing costs. It is possible that the cost of development could increase on lots that are sensitive to nutrient or nitrate loading, where a more protective nutrient removal technology may be required, however, the rules already allow for that under OAR 340-071-0130(1).

Racial equity

The adoption of the proposed rules would address sewer availability, ADUs, nutrient loading, variances, and O&M statewide, affecting various sectors, both public and private. These changes are designed to improve water quality and ensure equitable environmental outcomes.

The proposed rule does not impose differing requirements based on demographics and is expected to be implemented uniformly across communities. However, improving sewer availability and supporting ADU development could benefit Black, Indigenous and People of Color (BIPOC) or historically underserved communities, where infrastructure gaps and housing shortages are often more severe. Addressing nutrient loading and expanding onsite variance requirements will help mitigate environmental burdens in areas where water quality issues disproportionately affect marginalized populations. Enhanced O&M protocols aim to safeguard long-term system reliability and public health, particularly in communities that have historically faced underinvestment in infrastructure.

While the rule's implementation will be uniform, its potential benefits may indirectly support racial equity by addressing long-standing disparities in access to safe and reliable wastewater infrastructure, ultimately contributing to healthier and more resilient communities across the state. DEQ does not have data to quantify these potential indirect benefits.

Environmental justice considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice (EJ) issues. DEQ considered these effects by acknowledging that changes to rules concerning sewer availability, ADUs, nutrient loading, variances, and O&M could have potential EJ impacts on various communities. These communities often include populations that are disproportionately affected by environmental hazards and may have limited access to resources and political representation, such as low-income and rural groups.

Low-income rural communities often depend on onsite wastewater systems due to the unavailability of community-wide sanitary sewerage systems. Changes in these rules, such as updating standards for sewer availability, nutrient loading, or requiring Alternative Treatment Technology (ATT) systems, could impose financial burdens on these at-risk communities. To address these concerns, DEQ has included representatives from EJ-affected communities in the Rulemaking Advisory Committee (RAC) to ensure that the financial and practical implications of rulemaking are fully considered and to minimize potential negative or disproportionate impacts on these populations.

Adopting the proposed rule changes is intended to improve water quality and public health outcomes statewide. Measures to reduce nutrient loading and enhance O&M practices are critical to protecting environmental and community health, particularly in underserved areas that often experience greater environmental risks. Supporting ADU development and improving sewer availability standards can also promote equitable access to safer and more sustainable housing options.

DEQ has shared information about these potential impacts through RAC meetings, the Fiscal Impact Statement, Public Notices, and the Staff Report. These efforts aim to ensure transparency and inclusivity in decision-making and to align rule changes with environmental justice principles, contributing to healthier and more resilient communities across Oregon.

Land use

ORS 197.180 requires that agency actions, including rulemakings, be consistent with the statewide planning goals and acknowledged comprehensive plans. DEQ's State Agency Coordination plan provides that issuance of on-site sewage disposal permits is an action affecting land use. For this reason, Division 71 requires that a permit application include a land use compatibility statement which consists of a local government determination of compatibility with the local plan.

Land-use considerations

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that the following proposed rules affect programs or activities that the DEQ State Agency Coordination Program considers a land-use program.

OAR 340-071-0160

OAR 340-071-0205

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules. Construction-installation permits and authorization notices are activities identified as affecting land use in OAR 340-018-0030(5)(c) and a Land Use Compatibility Statement is a required exhibit for both activities.

EQC prior involvement

On July 11, 2025, DEQ presented an informational item to the EQC outlining the purpose and scope of the proposed rule revision. This presentation provided commissioners with background on the rulemaking and an overview of the anticipated changes.

Advisory committee

Background

DEQ convened the Onsite Wastewater Management Program 2025 advisory committee. The committee included representatives from a variety of interested parties related to onsite systems and met four times. The committee's web page is located at: [Onsite Wastewater Management Program 2025 Rulemaking](#).

The committee members were:

Onsite Wastewater Management Program 2025 Advisory Committee	
Name	Representing
Brian Rabe	Elkhorn Consulting
Todd Cleveland	Deschutes County
Kevin Riddle	Sweet Water Sanitation /Oregon Onsite Wastewater Association
Sheryl Ervin	Infiltrator Water Technologies
Peggy Lynch	League of Women Voters of Oregon
Lucas Marshall	Clatsop County
Nicholas Peasley	Oregon Association of Realtors
Michelle Miranda	City of Eugene representing League of Oregon Cities
Amy Pepper	City of Wilsonville/Oregon Association of Clean Water Agencies (ACWA)
Lisa Rogers	Casa of Oregon

Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
 - Rulemaking
 - Subscribers of DEQ public notices
 - Onsite (Septic) Sewage Systems
- Added advisory committee announcements to DEQ's calendar of public meetings at [DEQ Calendar](#).

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee discussed potential implementation

challenges and strategies to ensure compliance with the proposed rule changes. They provided feedback on the clarity of regulatory language, suggesting refinements to improve understanding and minimize unintended burdens. The committee also explored opportunities for outreach and education to support affected interested parties in adapting to the new requirements. Their input was instrumental in refining the final rule language and ensuring that the regulatory changes align with industry practices while achieving the intended environmental and public health benefits.

Public engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- Filing notice on April 30, 2025, with the Oregon Secretary of State for publication in the May 2025 Oregon Bulletin.
- Posting the notice, invitation to comment and draft rules on the rulemaking web page.
- Emailing approximately 22,092 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - Subscribers of DEQ public notices
 - Onsite (Septic) Sewage Systems
- Emailing the following key legislators required under [ORS 183.335](#):
 - Senator Mark Meek (Chair, Senate Committee on Finance and Revenue)
 - Senator David Brock Smith (Vice Chair, Senate Committee on Energy and Environment)
 - Senator Todd Nash (Vice-Chair, Senate Committee on Natural Resources and Wildfire)
 - Senator Jeff Golden (Chair, Senate Committee on Natural Resources and Wildfire)
 - Representative Mark Owens (Co-Chair, House Committee on Agriculture, Natural Resources, Land Use and Water)
 - Representative Ken Helm (Co-Chair, House Committee on Agriculture, Natural Resources, Land Use and Water)
- Emailing advisory committee members
- Posting on the [DEQ events calendar](#)

(Virtual) Public hearing

DEQ held one (virtual) public hearing. DEQ received three comments at the hearing. Later sections of this document include a summary of the four comments received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ.

Presiding officers' record

Hearing 1

Date	May 19, 2025
Place	Zoom.com
Start Time	2 p.m. PST
End Time	2:34 p.m. PST
Presiding Officer	Kyle Nelson

Presiding officer:

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

No one attended the hearing in person and four people attended by teleconference or webinar. Three people commented orally and no one submitted written comments at the hearing.

Summary of public comments and DEQ responses

Public comment period

DEQ accepted public comment on the proposed rulemaking from May 1, 2025, until 4 p.m. on May 23, 2025.

For public comments received by the close of the public comment period, the following table organizes comments into four categories with cross references to the commenter number. DEQ's response follows the summary. Original comments are on file with DEQ.

List of Commenters				
#	Name	Organization	Comment Number	Hearing #
1	Brian Rabe	Elkhorn Consulting	1	Email submission
2	Nicholas Peasley	Oregon Realtors	2	1
3	Nick Heister	Washington County	3	1
4	Aidan Bammes	Washington County	4	1

DEQ did not change the proposed rules in response to comments 1 through 3.

Comment 1

Brian noted an inconsistency between Division 071 and Division 073 regarding riser requirements for septic tanks buried deeper than 36 inches. Division 71 implies only one 30-inch riser is required, while Division 73 requires a 30-inch riser over each service access manhole. The issue arose with a 2,000-gallon tank that ended up being buried at 42 inches due to changes during installation. The commenter supports the use of 30-inch risers for easier maintenance and recommends aligning Division 71 with Division 73 to avoid confusion.

DEQ received 1 comment in this category from commenter #1.

Response

DEQ does not believe changing the minimum size of risers to 30-inches is warranted at this time, as it does not fit within the scope of this rulemaking and would likely incur a financial impact that would require the convening of a rulemaking advisory committee and an additional public comment period. Additionally, DEQ does not believe there is an inconsistency between Division 071, Onsite Wastewater Treatment Systems, and Division 073, Construction Standards. Division 071 states the requirement for tanks to have at least one riser to the ground surface and Division 073 states tanks designed to

be buried at depths below 36" must accommodate a 30-inch minimum diameter service access riser above each service access manhole but does not require a riser be placed above more than one manhole. Tanks designed for burial depths greater than 36" below the ground surface must be designed with manholes that can accommodate 30-inch minimum diameter service access risers.

Comment 2

Nicholas expressed concerns that the proposed rules fail to fully implement the intent of Senate Bill 931, specifically regarding cost considerations. He emphasized that while physical availability of sewer was addressed (e.g., 200 feet standard), the economic feasibility of connecting to a sewer system vs. repairing a septic system was not meaningfully incorporated. He cited legislative testimony from Senator Meek and constituent examples to highlight situations where the cost of sewer hookup (e.g., \$100,000) significantly exceeded septic repair costs (e.g., \$8,000). Nicholas criticized the rule for deferring too much authority to city discretion without requiring a clear analysis of cost comparisons, contrary to the bill's purpose of making septic repairs a viable option for property owners.

DEQ received 1 comment in this category from commenter #2.

Response

DEQ acknowledges concerns about the cost of sewer connections compared to septic repairs, as highlighted in legislative testimony by Senator Meek, and believes the proposed rules regarding sewer availability fully align with the intent of enacted Senate Bill (SB) 931. DEQ did consider all factors throughout the rulemaking process, including the drafting of the proposed rule changes.

SB 931 directs the EQC to adopt rules for determining whether a sewer system is available, considering several factors including the cost comparison between connecting to sewer and septic repair. DEQ believes the proposed rules balance the consideration of cost with other interests, including statewide planning goals, environmental and public health concerns, and ease of implementation, while staying within DEQ's regulatory authority.

In Oregon, municipalities have the power to enact ordinances, manage sewer infrastructure, and compel property owners to connect to sewer. DEQ has the authority to deny septic permits when sewer connections are deemed physically and legally available in the absence of local ordinances, DEQ's rules on sewer availability serve as the default statewide standard. The proposed rules clarify this relationship: municipalities hold primary legal authority to determine sewer availability, while DEQ defines physical availability as a fallback when local legal criteria may not be clearly established. DEQ still relies on municipalities to confirm physical distance to available sewer connections, and the rules allow for municipalities to waive connection requirements when certain factors make connections impractical.

The proposed rules guide municipalities to use distance as a proxy for cost, reflecting their legal authority over sewer connections. The proposed rules reduce the physical availability threshold for repairs and alterations to 200 feet, similar to the provision in SB 931, which sunset in early 2025. These changes clearly align with the intent of SB 931 to make septic repair a viable option when sewer connection is impractical, while recognizing that DEQ does not have legal authority over sewer connection.

Comment 3

Nick commented on the treatment of Accessory Dwelling Units (ADUs) versus Accessory Dwelling Structures (ADSs) in the rule. While he supported the standardized definition for ADUs, he suggested the rule also address ADSs, which are structures without kitchens or laundry facilities, to ensure adequate system sizing and prevent misuse or system failures. Nick recommended integrating language for ADSs to better align with actual use cases and enforcement needs.

DEQ received 1 comment in this category from commenter #3.

Response

DEQ acknowledges the increasing use of residential accessory structures throughout the state of Oregon and that these types of establishments are not explicitly defined in Division 071. However, DEQ believes addressing residential accessory structures is outside the scope of this rulemaking and would likely incur a financial impact that would require the convening of a rulemaking advisory committee and an additional public comment period. Further, local planning and building departments are the authority for residential structure uses and placement, where terminology and ordinances may vary from one jurisdiction to another, thus making it difficult to incorporate into the onsite program rules at this time.

DEQ changed the proposed rules in response to the comment described in the response section below.

Comment 4

Aidan raised a technical issue with the definition of “time dosing” in the proposed rules (specifically OAR 340-071-0100(164)). He found the definition unclear and suggested revisions for better clarity, particularly for those unfamiliar with the terminology. Aidan also noted concern with the phrasing “similar container” arguing that this could be interpreted to allow unapproved or nonstandard tanks. He recommended specifying that containers used must meet existing DEQ approval standards.

DEQ received 1 comment in this category from commenter #4.

Response

DEQ added language to the definition of “time dosing” to help clarify that a container used for storage must be approved. In practice, for construction, installation, alteration, and repair permits the container must be a DEQ approved product. For Water Pollution Control Facility (WPCF) permits, the container may be approved as part of the proposed design and plan review, often prepared by a professional engineer.

Implementation

Notification

The proposed rules would become effective on Jan. 1, 2026. DEQ would notify affected parties by:

- Sending a GovDelivery notice to the 2025 Onsite Rulemaking email list.
- Updating the Onsite Wastewater Management Program 2025 website.
- Conducting outreach to local and regional agents, Sewage Disposal Service licensees, certified maintenance providers, consultants, educators and partner organizations, including Oregon Onsite Wastewater Association, Oregon Environmental Health Association and Oregon REALTORS via email, webinars, and in-person events.

Compliance and enforcement

Affected parties – The proposed rules will affect the business practices of O&M service providers and the owners of systems requiring O&M annual reporting. Affected parties will be required to comply with the requirements clarified in the rule.

DEQ staff will coordinate with the Office of Compliance and Enforcement to implement any necessary updates to guidance in alignment with the new rules and provide internal training to staff involved in enforcing onsite wastewater violations. DEQ will also provide external enforcement guidance to onsite program agents statewide.

Measuring, sampling, monitoring and reporting

The proposed rule amendments do not generate additional measuring, sampling, monitoring and reporting requirements.

Systems

The proposed rule amendments do not generate new systems.

Training

Affected parties – DEQ will partner with the Oregon Onsite Wastewater Association to provide training for O&M service providers, specifically on the topic of how to incorporate the rule amendments into service contracts. DEQ will also train county agents on implementing the proposed rule amendments.

DEQ staff – DEQ staff will complete trainings as needed to administer the program.

Five-year review

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts most of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

Rules exempt from 5-year review				
340-071-0100	340-071-0130	340-071-0135	340-071-0140	340-071-0150
340-071-0155	340-071-0160	340-071-0162	340-071-0170	340-071-0175
340-071-0185	340-071-0205	340-071-0210	340-071-0215	340-071-0220
340-071-0260	340-071-0265	340-071-0275	340-071-0280	340-071-0290
340-071-0295	340-071-0302	340-071-0310	340-071-0340	340-071-0345
340-071-0360	340-071-0400	340-071-0415	340-071-0430	340-071-0440
340-071-0520	340-071-0600	340-071-0650	340-071-0800	340-073-0025
340-073-0026	340-073-0030	340-073-0035	340-073-0040	340-073-0050
340-073-0055	340-073-0056	340-073-0060	340-073-0075	340-073-0085
Repeal				
340-071-0115	340-073-0041			

Five-year rule review required

No later than Sept. 11, 2030, DEQ will review the newly adopted rules for which ORS 183.405 (1) requires review to determine whether:

- The rule has had the intended effect
- The anticipated fiscal impact of the rule was underestimated or overestimated
- Subsequent changes in the law require that the rule be repealed or amended
- There is continued need for the rule.

DEQ will use “available information” to comply with the review requirement allowed under ORS 183.405 (2).

DEQ will provide the five-year rule review report to the advisory committee to comply with ORS 183.405 (3).

Rule subject to 5-year review
340-071-0132

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).