



Memorandum

Date: Dec. 31, 2025

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Agenda item E, informational item: Rulemaking Plan Review
Jan. 15-16, 2026, EQC meeting

Purpose of item

DEQ will provide the Environmental Quality Commission a briefing on key elements of the rulemaking process, the current annual rulemaking plan, the authority the commission has to delegate specific action to the Director for final approval, and work in the coming year to revise the rulemaking process based on legislative action and input from the commission.

Rulemaking process

Background

ORS 468.015.020 provides that the Environmental Quality Commission is the rulemaking authority for the Department of Environmental Quality. Acting on the commission's behalf, DEQ performs the functions necessary to prepare proposed rules for the commission's consideration, including all associated public involvement and processes.

The rulemaking process is initiated based on a variety of reasons, including:

- Legislation requires or authorizes rulemaking by the commission;
- The Governor directs rulemaking to be initiated by the department and commission;
- Third parties petition the commission to initiate rulemaking; or
- The commission or the department initiates the process.

During the presentation, DEQ staff will review the process by which its leadership reviews proposed rulemaking projects, as well as the overall process DEQ uses to prepare draft rules for public comment and proposed regulations for the commission's consideration.

2026 Annual Rulemaking Plan

DEQ maintains a "[Rulemaking Plan](#)" for the public and interested parties to reference. It summarizes all active rulemaking projects DEQ is leading, provides a description of each rulemaking, and outlines a high-level timeline for each process. The plan is "evergreen," meaning the department updates it continuously as new rulemaking projects are initiated.

Translation or other formats

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During the presentation, DEQ staff will summarize the current rulemaking plan and anticipated rulemaking projects for 2026 that are not yet published in the plan.

Delegation of final approval to the Director

Under ORS 468.015 and .020, the commission has authority to make rules and policy decisions for DEQ. However, ORS 183.325 allows the commission to delegate certain authorities, including rulemaking authority, to named DEQ employees provided specific protocols are followed to formalize the written delegation.

In previous years, the commission has delegated final rulemaking authority to the director for specific rulemakings. Delegating final decision-making authority to the director streamlines the approval process for primarily procedural actions. This saves valuable commission time for more substantive rule and policy issues.

Delegation of a final decision does not impact the other stages of rulemaking, and DEQ must adhere to all elements of Oregon's administrative procedure requirements (ORS Chapter 183), such as providing public notice of proposed rules, providing for public comment, responding to public comment, and evaluating fiscal impacts of proposed regulations.

When evaluating rulemakings for potential delegation, DEQ prioritizes rulemakings that are administrative or procedural, rulemakings that implement explicit legislative direction, and permanently adopted rules that the commission has previously adopted temporarily.

During the presentation, DEQ staff will highlight current rulemakings that the commission may consider for delegation at a future meeting.

Recent and anticipated changes to the rulemaking process

In 2025, DEQ reviewed and updated its rulemaking processes and procedures to align with [expectations the Governor issued in February 2025](#). Generally, the expectations seek to ensure the public and interested parties can easily track and engage in all state agency rulemaking processes. This includes:

- Maintaining all proposed, temporary and permanent rules on DEQ's website, in one central location;
- Publishing public comments and the agency's response on DEQ's website throughout the rulemaking process;
- Preparing, publishing and maintaining an annual rulemaking plan; and
- Cross-linking between the agency's rulemaking pages and the Secretary of State's Administrative Rule Database and the Oregon Transparency webpage on rulemaking.

DEQ updated its rulemaking website to more explicitly call attention to temporary rules, integrate more seamlessly with the Secretary of State's rule database, and took steps to record and publish Rules Advisory Committee proceedings consistently. A follow-up audit performed by the Department of Administrative Services of the new expectations against DEQ's practices found that the agency is consistently implementing the identified best practices.

HB 3569 (2025) requires that when an agency appoints a Rules Advisory Committee as part of the process to adopt rules implementing legislation, the agency must provide a seat on the committee to the chief sponsor of the relevant legislation. This requirement applies to committees appointed on or after Jan. 1, 2026. DEQ has taken steps to update its planning process to ensure the appropriate legislator(s) is engaged early in the process to facilitate their engagement.

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Finally, the DEQ 2025-2027 Strategic Plan includes a goal and strategies specific to supporting the commission's work:

Goal 5: Continue to enhance the decision-support functions and tools used to inform the work of the Environmental Quality Commission.

- *Strategy 5.1: Update commission material templates in collaboration with the commission to ensure key types of information are clearly and readily available to support their decision-making.*
- *Strategy 5.2: Establish processes for early and regular commission engagement in policy and rulemaking initiatives where the commission has a high degree of discretion.*
- *Strategy 5.3: Identify resources and approaches needed to analyze the effects and impacts of policy proposals brought to the commission.*

To inform this work, DEQ staff will schedule listening sessions with each commissioner to solicit feedback and input on modifications and updates to the materials the department uses to brief the commission and inform its decision-making. The department welcomes input from the commission on approaches to implementing strategies 5.2 and 5.3.

Supporting materials

- A. [DEQ Rulemaking Plan and Calendar](#)

Report prepared by:

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Non-discrimination statement

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