

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

Rule For Klamath River Restoration Time Schedule
Fiscal and Economic Impacts

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	Rule for Klamath River Restoration Time Schedule. Add a new section to OAR 340-041-0185 (water quality standards for Klamath Basin)
Statutory Authority or other Legal Authority	ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes Implemented	ORS 468B.030, 468B.035 & 468B.048
Need for the Rule(s)	The proposed rule is needed so that DEQ may evaluate and, if appropriate, issue a 401 certification for the removal of the JC Boyle Dam on the Klamath River, should the U.S. Secretary of Interior determine that the dam should be removed. The rule allows DEQ to include a time schedule for compliance with water quality standards in the water quality certification if specified findings are made because the dam removal is a restoration project that will have long term water quality and aquatic life benefits.
Documents Relied Upon for Rulemaking	<i>Klamath River Restoration Rulemaking Issue Paper</i> , Oregon Department of Environmental Quality, Water Quality Standards and Assessment Section and Eastern Region. This document is available on DEQ's water quality website or by contacting Steve Kirk, Oregon DEQ, Water Quality Division, Bend, OR 97701, (541) 633-2023 or by email at kirk.steve@deq.state.or.us .
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 and negative economic impact of the rule on business.
Fiscal and Economic Impact, Statement of Cost Compliance	
Overview	The goal of the proposed rule is to protect water quality to the maximum extent practicable during removal of the JC Boyle Dam on the Klamath River, should the U.S. Secretary of Interior determine that the dam should be removed. The rule clarifies DEQ's authority and intent to include a time schedule for compliance with water quality standards in the water quality certification should DEQ determine to certify the project under section 401 of the Clean Water Act. The dam removal activities contemplated in the

	<p>Klamath River are expected to result in short-term degradation of water quality but provide long-term water quality and fish habitat improvements. The Klamath dam removal will result in the release of sediments and will likely cause exceedances of water quality criteria for dissolved oxygen, pH and turbidity for a limited period of time. The proposed rule will enable DEQ to certify the project despite temporary exceedances of water quality standards during removal of JC Boyle dam if certain findings are made and a time schedule for compliance is included as a condition of the 401 certification. DEQ must conclude that the proposed dam removal will benefit water quality and aquatic life in the long term. The proposed rule also requires DEQ to find that the project will minimize water quality impacts to the maximum practicable extent during the dam removal process and include requirements to that end as a condition of the section 401 Water Quality Certification.</p>	
<p>Impacts on the General Public</p>	<p>DEQ does not expect the rulemaking will result in direct costs or benefits to the general public. The rule will not impact the decision about whether or not the dam will be removed and will not affect dam removal costs..</p>	
<p>Impacts to Small Business (50 or fewer employees – ORS183.310(10))</p>	<p>DEQ does not expect adverse impacts to small businesses from this rule.</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>Small businesses are not subject to this rule.</p>
	<p>b) Types of businesses and industries with small businesses subject to the proposed rule</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>d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule</p>	
	<p>e) A description of the manner in which DEQ involved small businesses in the development of this</p>	<p>The Rulemaking Advisory Committee includes representation from Klamath County Commissioners and the Pacific Coast Federation of Fishing Associations.</p>

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Impacts on Large Business (all businesses that are not "small businesses" under ORS183.310(10))	Large businesses are not subject to this rule and DEQ does not expect there to be an impact to business.
Impacts on Local Government	DEQ does not expect impacts to local governments.
Impacts on State Agencies other than DEQ	DEQ does not anticipate fiscal or economic impacts to other state agencies with this rulemaking. The clarity provided by the rule will improve the ability of any other state agency to review a draft § 401 certification in a timely manner.
Impacts on DEQ	DEQ is granted the authority under the Clean Water Act and state law to issue a 401 certification for any project that requires a federal 404 permit, including the J.C. Boyle dam removal. The proposed Klamath River Restoration rule will facilitate DEQ's administrative process associated with a large scale restoration project to ultimately achieve beneficial uses, which is currently not addressed by our existing rules. By providing clarity to DEQ's 401 process for this situation, the proposed rule is expected to reduce the administrative cost of this action and may also minimize administrative appeals or legal action. Therefore, DEQ anticipates that the proposed rule will result in fewer demands on agency staff resources.
Assumptions	DEQ assumes that the best available information which DEQ has relied on to develop this rule is reasonably true and accurate. DEQ assumes that it is in the interest of the public to expend public and private resources on actions that will result in measurable environmental benefits.
Housing Costs	DEQ has determined that this proposed rulemaking will have <u>no effect</u> 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.
Administrative Rule Advisory Committee	DEQ convened a seven-member Advisory Committee to provide input on impacts of proposed rule options. The Committee met three times from May to August 2011. The last of these meetings included a discussion of the draft fiscal impact statement. DEQ documented discussions in minutes for each meeting and summarized comments received from the workgroup in the draft Issue Paper. The advisory found the draft fiscal statement to be a reasonable and accurate assessment of the impacts.

Members	
Representing:	Full Name
Klamath County Commissioners	Dennis Linthicum
US Fish and Wildlife Service	Ron Larson
Bureau of Land Management	Renee Snyder
Klamath Riverkeeper	Erica Terrence
Oregon Fish and Wildlife Department	Ted Wise
Pacific Coast Federation of Fishermen's Associations	Glen Spain
US Bureau of Reclamation	Jason Cameron

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Prepared by

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Approved by DEQ Budget Office

JAMES ROIS 10/11/11
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