

Proposed Rulemaking Announcement

Identification of Pollutants Requiring Toxics Reduction Plans

Rules Establishing Trigger Levels for Pollutants on the Priority Persistent Pollutant List



State of Oregon
Department of
Environmental
Quality

Background

The 2007 Oregon Legislature passed Senate Bill 737 to address persistent toxic pollutants that have documented impacts on human health and the environment. This legislation directs the Department of Environmental Quality to develop a list of priority persistent pollutants based on toxicological and bioaccumulative factors. The Oregon Department of Environmental Quality is proposing rules to implement Section 4 (A) & (B) of Senate Bill 737. These sections require any municipal wastewater facility with a dry-weather design flow capacity of one million gallons per day or more to develop toxics reduction plans for listed priority persistent pollutants if any of the pollutants are found in their effluent above the trigger levels set by this rule. When final, this rule will establish the trigger levels for each pollutant on the priority persistent pollutant list.

Why is the rule needed?

This is a new rule to establish trigger levels to be used by municipal wastewater treatment facilities that meet the flow capacity identified in the bill. Rules do not currently exist to implement trigger levels pursuant to the requirements of the bill. At this time 52 municipal wastewater treatment facilities meet the definition in the statute.

What is the objective of this rulemaking?

This rule will establish numeric effluent concentration values or trigger levels for each of the 118 priority persistent pollutants for which a maximum contaminant level has not been adopted by EPA under the federal Safe Drinking Water Act but that the Oregon Environmental Quality Commission determines by rule should be included in a permitted facility's toxic pollutant reduction plan. Municipal wastewater treatment facilities meeting the criteria specified by the legislation will compare the results of wastewater effluent monitoring against these trigger levels. Where effluent concentrations of a pollutant on the list exceed the trigger level, the facility will be required to develop a toxics reduction plan aimed at reducing levels of that

pollutant in their discharge. The trigger levels will provide a basis for the municipalities to know when toxics reduction plans are required.

Who may be affected?

Municipal wastewater facilities with a dry-weather design flow capacity of one million gallons per day or more could encounter direct and indirect financial impacts if they exceed specific trigger levels for one or more pollutants on the priority persistent pollutant list. Pollutant concentrations in effluent greater than the trigger level will require wastewater treatment facilities to develop and implement a toxics reduction plan. Businesses, in turn, could incur cost increases if toxics reduction actions are indirectly mandated by an affected municipality that serves their wastewater treatment needs. In addition, residential rate payers associated with any of the qualified facilities could experience rate increases if the cost of developing or implementing a toxics reduction plan is passed on to ratepayers.

How was this proposal developed?

DEQ selected trigger levels for those persistent pollutants without an established maximum contaminant level from one of several existing values, or from values readily calculable with existing data. It chose existing values from national or international government documents or scientific reports which have undergone extensive peer and public review and reflect relatively current scientific information. DEQ consulted with a Science Peer Review Panel in this process. On Sept. 30, 2009, DEQ met with the panel to discuss the process for selecting the trigger levels and opened the meeting to the public. DEQ also offered any interested party the opportunity to review and provide input on the process for selecting trigger levels. DEQ evaluated this input in selecting the proposed trigger levels.

All supporting documents for this rulemaking, including the report, "*Selection of Trigger Levels for Oregon's Priority Persistent Pollutants*," are

Water Quality Division
811 SW 6th Avenue
Portland, OR 97204
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Contact: Chris M. Gannon
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www.oregon.gov/DEQ/

The Department and the EQC have the statutory authority to address this issue under ORS 468.020 and 468B.141. These rules implement ORS 468B.138



available on DEQ's project website at:
<http://www.deq.state.or.us/wq/SB737>

Copies of documents DEQ used to develop this rulemaking proposal can be reviewed at DEQ's headquarters office at 811 SW Sixth Ave., Portland, Oregon. Please contact Chris Gannon at 503-229-5622 (toll-free in Oregon at 1-800-452-4011, ext. 5622), or by electronic mail at gannon.chris@deq.state.or.us for times when documents are available for review.

Additional documents available

- Proposed rule
- Statement of Need and Fiscal Impact
- Land Use Evaluation Statement
- Relationship to Federal Requirements

These documents provide additional information about this proposed rulemaking and can be viewed at "Proposed Rule Revisions":

http://www.deq.state.or.us/regulations/proposed_rules.htm.

How to comment

People can comment on the proposed rulemaking via mail, fax or e-mail at any time before the comment deadline of Monday, Feb. 1, 2010. Written and oral comments can be submitted during any of the public hearings specified below. It is not necessary to attend a hearing in order to comment.

Written comments may be mailed to Chris Gannon, Oregon DEQ, Water Quality Division, 811 SW Sixth Ave., Portland, OR 97204-1390.

Comments may be faxed to Chris Gannon at 503-229-6037 or mailed electronically to: triggerlevelrule@deq.state.or.us (Electronic mail comments will be acknowledged immediately. Comments and attachments are limited to 10 MB. If you do not receive an automatic response, or your comments and attachments will exceed this limit, please contact the DEQ staff listed above.) If there is a delay between servers, e-mails may not be received before the deadline.

Public hearings

DEQ will hold public hearings at four locations throughout the state in Jan. 2010. Each hearing will begin with a brief overview of the proposed rule, followed by the opportunity for members of the public to provide oral and written comment. DEQ will record and review all comments.

- Eugene, 5:30 p.m., Tuesday, Jan. 19, 2010, DEQ Eugene Office- Willamette Room, 165 East 7th Avenue
- Medford, 5:30 p.m., Wednesday, Jan. 20, 2010, City Hall- Room 330, 411 West 8th Street
- Pendleton, 5:30 p.m., Tuesday, Jan. 26, 2010, City Hall- Community Room, 501 Emigrant Avenue
- Portland, 5:30 p.m., Thursday, Jan. 28, 2010, DEQ HQ Office, 10th Floor- EQC-A, 811 SW 6th Avenue

Comment deadline is Feb. 1, 2010

All comments are due to DEQ by 5 p.m. Monday, Feb. 1, 2010. DEQ cannot consider comments from any party **received** after the deadline for public comment.

How will the rule be adopted?

DEQ will respond to all comments received during the public hearing and comment period and may modify the proposed rules. DEQ plans to recommend that the Oregon Environmental Quality Commission adopt the rule at the commission's Jun. 18, 2010 meeting. DEQ will notify persons of the time and place for final commission action if they submit comments during the hearing or comment period or request to be placed on DEQ's mailing list for this rulemaking.

Accessibility information

DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach at 503-229-5696 or call toll-free in Oregon at 1-800-452-4011; fax to 503-229-6762; or e-mail deqinfo@deq.state.or.us. People with hearing impairments may call the Oregon Telecommunications Relay Service at 1-800-735-2900.