State of Oregon

 DEPARTMENT OF ENVIRONMENTAL QUALITY

**Relationship to Federal Requirements**

**Amendments to Oregon Water Quality Standards**

**for Arsenic, Iron and Manganese \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

***Answers to the following questions identify how the proposed rulemaking relates to federal requirements and the justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).***

**1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?**

The proposed rulemaking is consistent with applicable federal requirements. The federal Clean Water Act requires states to adopt water quality standards to protect beneficial uses of the nation’s waters. EPA develops nationally recommended criteria but also allows states to adopt different criteria as long as they are based on sound science and rationale. In developing the proposed revisions to the water quality standards, DEQ used an approach that resulted in criteria that are less stringent than EPA’s nationally recommended criteria; however, DEQ concludes that the proposed criteria are scientifically defensible. DEQ must submit the proposed standards to EPA for approval after they are adopted by the EQC. DEQ has worked with EPA through the development of the proposed criteria and expects that EPA will conclude that they meet federal requirements and will approve them.

**2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).**

The proposed criteria are consistent with federal requirements established by Clean Water Act and implementing federal regulations. DEQ is proposing criteria different from the nationally criteria recommendations based on environmental and scientific information. The result of adopting and implementing these criteria and the associated policy is responsive to a State policy interest in spending public and private resources to achieve environmentally meaningful results. Detailed information is provided in an issue paper available on DEQ’s website: *Water Quality Standards Review and Recommendations: Arsenic, Iron and Manganese* (DEQ, 2010). (<http://www.deq.state.or.us/wq/standards/review.htm>)

**3.****If the proposal differs from, or is in addition to, applicable federal requirements, did DEQ consider alternatives to the difference or addition?**  **If so, describe the alternatives and the reason(s) they were not pursued.**

DEQ considered leaving the existing criteria in place, which are the same values as EPA’s nationally recommended criteria. However, DEQ found that current data and information support the conclusion that the iron and manganese criteria are unnecessary to protect human health, and that the alternative, scientifically-defensible approach to calculating the arsenic criteria results in values that are protective of human health and address many of the issues raised with regard to the current arsenic criteria. These issues include criteria values that are not measurable by current laboratory methods, values that are difficult to implement based on the fact that criteria values are lower than natural levels in many Oregon waters, and more stringent than required to protect human health given these circumstances. The reason DEQ is proposing to revise the criteria rather than leaving the existing criteria in place is explained in detail in the above referenced issue paper (DEQ, 2010).