

**From:** MATZKE Andrea

**Sent:** Monday, August 19, 2013 2:57 PM

**To:** ([curtisb@co.clackamas.or.us](mailto:curtisb@co.clackamas.or.us)); Dianne Barton ([bard@critfc.org](mailto:bard@critfc.org)); Heath Curtiss; John Ledger - AOI ([johnledger@aoi.org](mailto:johnledger@aoi.org)); Kathleen Collins ([collins.kathleen@epa.gov](mailto:collins.kathleen@epa.gov)); VAN NATTA Kathryn; MATZKE Andrea; Mike Freese ([Mike@oregonfb.org](mailto:Mike@oregonfb.org)); Travis Williams ([travis@willametteriverkeeper.org](mailto:travis@willametteriverkeeper.org)); WIGAL Jennifer

**Subject:** FW: Corrections and Clarifications to Toxics Water Quality Standards Rulemaking: Available for Public Comment

Dear Advisory Committee,

This rulemaking is now open for public comment. Although the proposed rules will not publish to the Sec. of State *Oregon Bulletin* until Sept. 1, the proposed rules were posted to DEQ's Rules Registry on Sept. 14 and are therefore, available for comment. The *Gov Delivery* message below just went out to interested members of the public.

Based on comments I received internally, there are additional proposed changes to the rules, but I would categorize them as minor. The most notable change, however, was the addition of an effective date. As we discussed in the advisory committee meetings, some of the proposed amendments are considered water quality standard changes and would need to be approved by EPA before the changes became effective. In other cases, there were only minor formatting/clarifying changes not needing EPA approval. Our Dept. of Justice attorney informed us that technically, the rule becomes effective when filed at the Sec. of State or at a later date specified in the rule. The language we had originally proposed would have the rule become effective at some later unspecified date when EPA approves.

One option was to allow the rule to become effective on the date filed with the Secretary of State, but specify that those criteria or other implementation measures that are subject to EPA review and approval under 40 CFR 131.13 or 131.21 do not become applicable for purposes of the Clean Water Act or ORS chapter 468B until approved by EPA (similar to what we did for the human health toxics rulemaking). Because DEQ's proposed amendments are a mix of WQS-type and non-WQS type changes (especially true with Table 30), we thought it would be confusing and cumbersome to explain to the public what changes were effective following Sec. of State filing and which changes were not pending EPA approval. Therefore, we thought it would be cleaner to have a date in the rule upon which ALL amendments in OAR 340-041-0033 became effective. In consultation with EPA, we chose April 18, 2014 as the effective date subsequent to EPA approval. If EPA was not able to take action by that date, then DEQ could extend the date through a temporary rule. The other amendments under the Bacteria Rule and Div. 40 Groundwater rules become effective at time of Sec. of State filing because we did not add specific language about the effective date. These changes should not be considered WQS changes. Below is the revised proposed rule language:

**(1) Amendments to sections (1-5) and (7) of this rule (OAR 340-041-0033) and associated revisions to Tables 20, 33A, 33B, 33C, and 40 become effective on April 18, 2014. The amendments do not become applicable for purposes of ORS chapter 468B or the federal**

**Clean Water Act, however, unless approved by EPA pursuant to 40 CFR 131.21 (4/27/2000).**

The DEQ Rules Registry link below takes you to the rulemaking documents. We have a new online comment process to gather comments, so if you would like to make comments, use the link provided. If you have any questions about the proposed amendments, please don't hesitate contacting me. Thanks again for your commitment to this rulemaking.

*Andrea Matzke, MPH*

OR DEQ | Water Quality Standards & Assessment | 503-229-5384

**From:** DEQ Online Subscriptions [<mailto:ordeq@public.govdelivery.com>]

**Sent:** Monday, August 19, 2013 2:07 PM

**To:** MATZKE Andrea

**Subject:** Corrections and Clarifications to Toxics Water Quality Standards Rulemaking

## Corrections and Clarifications to Toxics Water Quality Standards Rulemaking

The Oregon Department of Environmental Quality (DEQ) is proposing a rulemaking to make corrections and clarifications to its water quality standard rules for toxics. DEQ is conducting this rulemaking in response to [EPA's Jan. 31, 2013](#) disapproval of a number of toxics criteria that Oregon adopted in 2004 to protect aquatic life. EPA disapproved some of the criteria due to errors or lack of clarity, while other criteria were disapproved based on more substantive issues. The objective of this rulemaking is to revise criteria where the remedies are straightforward, such as correcting 11 pesticides and freshwater selenium criteria. DEQ also proposes to consolidate the effective aquatic life toxics criteria that are currently contained in three tables into one table. In addition, this rulemaking intends to correct typographical errors associated with the [Human Health Toxics Rulemaking](#) adopted in 2011.

Parties affected by this proposal generally include industrial and municipal dischargers that have toxics monitoring requirements and discharge to waters of the State.

The Notice of Proposed Rulemaking for these amendments will be published in the Sept. 1, 2013 Oregon Bulletin. **To learn more about this rulemaking, or to submit**

submitted by 5 p.m. on Sept. 30, 2013.

DEQ expects to recommend these amendments to the Environmental Quality Commission at its Dec. 11-12, 2013 meeting. EPA must then approve the adopted rules before they become effective for Clean Water Act programs. Following EPA approval, the amendments become effective on April 18, 2014.

Meeting materials from the two Advisory Committee meetings may be found on DEQ's [Corrections and Clarifications to Toxics Water Quality Standards Rulemaking 2013](#) webpage. If you have questions or need additional information, you may also contact Andrea Matzke at 503-229-5384 or by [email](#).

#### SUBSCRIBER SERVICES:

[Manage Subscriptions](#) | [Unsubscribe All](#) | [Help](#)

---

This email was sent to [matzke.andrea@deq.state.or.us](mailto:matzke.andrea@deq.state.or.us) using GovDelivery, on behalf of the Oregon Department of Environmental Quality (DEQ) • 811 SW 6th Avenue • Portland OR 97204 • 503-229-5696

