

From: [BACHMAN Jeff](#)
To: [ROOT Jenny](#)
Subject: FW: Division 12 Water Quality Consultation
Date: Tuesday, January 07, 2014 12:26:46 PM

Jeff Bachman
Office of Compliance and Enforcement
Oregon Dept. of Environmental Quality
(503) 229-5950

From: FOSTER Eugene P
Sent: Wednesday, August 29, 2012 3:50 PM
To: BACHMAN Jeff
Subject: RE: Division 12 Water Quality Consultation

yes

From: BACHMAN Jeff
Sent: Wednesday, August 29, 2012 3:32 PM
To: ADES Dennis R; SMITH Duane; HUTCHENS-WOODS Cheryll; FOSTER Eugene P; SCHNURBUSCH Steve; LOBOY Zach; GEIST Gregory; YELTON-BRAM Tiffany; NIGG Eric; MRAZIK Steve; BELYEA David; KUCINSKI Michael
Cc: NOMURA Ranei; BROWN Courtney; ROOT Jenny; CARLOUGH Les
Subject: RE: Division 12 Water Quality Consultation

Hi just a quick check in to see if folks have actually sent this out to their staff and we are on target for meeting the September 7th deadline for comments. Could everybody please respond and tell me yea or nay?

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From: BACHMAN Jeff
Sent: Thursday, August 16, 2012 10:35 AM
To: ADES Dennis R; SMITH Duane; HUTCHENS-WOODS Cheryll; FOSTER Eugene P; SCHNURBUSCH Steve; LOBOY Zach; GEIST Gregory; YELTON-BRAM Tiffany; NIGG Eric; MRAZIK Steve; BELYEA David; KUCINSKI Michael
Cc: NOMURA Ranei; BROWN Courtney; ROOT Jenny; CARLOUGH Les
Subject: Division 12 Water Quality Consultation

As discussed at yesterday's permit managers PMT, below is a draft email that you can send to your staff to begin soliciting input on potential changes to the water quality-related sections of Division 12. Please write or call with any questions.

OCE is reviewing Division 12, DEQ's enforcement rules and, among things, is looking for feedback from the water quality program regarding possible changes to those portions of Division 12 that specifically address water quality violations. **Comments and suggested changes must be sent to Jeff Bachman and Ranei Nomura by Friday, September 7. Jeff is coordinating the consultation on all water quality violations, except those related to UIC and stormwater, which is being coordinated separately by Courtney Brown.**

Specifically, OCE wants input on: **OAR 340-012-0055**, Water Quality Classification of Violations; **OAR 340-12-0060**, On-Site Sewage Disposal Classification of Violations; **OAR 340-12-0135(2)**, Magnitudes for selected violations pertaining to Water Quality, and **OAR 340-012-0140**, Determination of Base Penalty (civil penalty matrices).

http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_012.html

Regarding -0055 and -0060, classification of water quality and on-site rules, Division 12 currently classifies all violations as Class I, II, or III, with Class I violations being the most serious and Class III violations being the least. Violations that are not specifically classified in -0055 and -0060 are Class IIs by default. In considering potential revisions to these sections:

Are there violations that should be changed to a higher or lower classification?

Are there violations that are Class II by default that should be specifically classified, i.e. as a Class I or Class III?

Regarding -0135(2), magnitudes attempt to reflect actual or potential environmental harm caused by the violation and are either major, moderate or minor. Any violations that do not have a "selected" magnitude assigned in -0135(2) are moderate by default, unless DEQ has evidence to support a finding of major or minor magnitude. For water quality, the only selected magnitudes are for violations of permit effluent limits or numeric water quality standards. In considering potential revisions:

Are there classes of violations for which selected magnitudes can and should be developed?

Do the current magnitude determination formulas make sense, or should they be revised? For example, should we change the dilution ratios used to determine the magnitude for violation of an effluent limit? Should we use a different criteria than dilution? etc.

Regarding -0140, this section establishes base penalties through matrices that take into account the violation class and magnitude and the size/nature of the violator. There are four matrices, \$8000, \$6000, \$2500, and \$1000, with violators who are assigned to the \$8,000 matrix liable for the highest penalties and those assigned to the \$1,000 matrix liable for the lowest penalties. For example water quality permittees with the highest discharge volumes are assigned to the \$8,000 matrix and those permittees with the lowest volumes are assigned to the \$2,500 matrix. As part of the current division 12 revisions, the dollar amounts in the matrices are likely to change, but by how much is not yet known. We are asking at this point that people ignore the dollar amounts and just think of the matrices as a hierarchy where the big fish should be assigned to the highest matrix, the medium fish to the next lowest matrix etc.

Do you think that the violator classes are assigned to the appropriate matrix or that they should be placed on a higher or lower matrix?

Some classes of violators are not assigned to any particular matrix and by default are assigned to the \$2,500 matrix. Are there some unassigned violators that should be placed on a specific matrix, e.g. holders of 401 certifications who violated the conditions of their 401?

If you have any questions or wish to discuss any ideas, please contact Jeff Bachman in OCE.

Comments and suggested changes are due to Jeff Bachman and Ranei Nomura by September 7.

Once all comments have been submitted, they will be reviewed and considered by the PMT and the PMT will forward on specific recommendations for changes to OCE.

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