**Rule Caption:** Water Quality Standards Revisions for Freshwater Ammonia Criteria

**Adm. Order No.:** DEQ 1-2015

**Filed with Sec. of State:** 1-7-2015

**Certified to be Effective:** 1-7-15

**Notice Publication Date:** 10-1-2014

**Rules Adopted:** 340-041-8033

**Rules Amended:** 340-041-0002, 340-041-0007, 340-041-0028, 340-041-0033, 340-041-0124, 340-041-0310, 340-041-0315

**Subject:** Short summary

The proposed rule amendments will:

Adopt U.S. Environmental Protection Agency’s latest 2013 national recommendations for freshwater ammonia criteria, which are:

- Less stringent than Oregon’s current chronic criteria for ammonia;

- Generally more stringent than Oregon’s acute criteria for ammonia; and

- Account for mussel and snail sensitivity to ammonia.

Likely address EPA’s Jan. 31, 2013, disapproval of Oregon’s ammonia criteria, which the EQC adopted in 2004.

The National Marine Fisheries Service’s Biological Opinion indicated

that Oregon’s 2004 adopted ammonia criteria would cause jeopardy to threatened and endangered species. EPA and NMFS are evaluating how EPA’s latest 2013 recommendations are consistent with the Reasonable and Prudent Alternatives in NMFS’s jeopardy opinion. If NMFS determines that EPA’s criteria derivation method generally followed the Reasonable and Prudent Alternatives, then NMFS can conclude that EPA’s 2013 ammonia criteria protect threatened

and endangered species in Oregon, thus satisfying Endangered Species Act consultation requirements. A “no jeopardy” decision from NMFS would likely lead to EPA approval of Oregon’s proposed ammonia criteria.

Correct an error in the stated applicability of the pH standard for

the main stem Snake River.

Amend the Umatilla Basin-specific standards and uses and remove a term from the definitions section to be consistent with EPA’s partial disapproval of DEQ’s site-specific criteria and use designations for the West Division Main Canal.

Incorporate plain language into the amended rules consistent with the Oregon Administrative Procedures Act.

In addition, DEQ will add a note below two rule sections to notify the reader that EPA disapproved the statewide natural conditions criterion in OAR 340-041-0007(2) and the natural conditions criterion for temperature in OAR-340-041-0028(8). This means that these provisions may not be applied for Clean Water Act purposes, such as wastewater discharge permits or total maximum daily loads. DEQ did not accept public comments on the notes because they only provide information and do not amend the rule.

Brief history:

Currently, Oregon’s ammonia criteria are based on 1985 EPA recommendations. In 2004, Oregon adopted revised ammonia criteria based on updated EPA recommendations from 1999. However, these adopted criteria have never been effective because EPA did not approve the revisions. In August 2012, NMFS, as part of Endangered Species Act consultation requirements, determined that the 1999 EPA ammonia criteria that Oregon adopted would jeopardize threatened and endangered fish. Based on NMFS’ determination and updated toxicity data indicating that mussels are the most sensitive species to ammonia, EPA disapproved Oregon’s criteria on Jan. 31, 2013.