
Date: April 7, 2010

To: Environmental Quality Commission

From: Dick Pedersen, Director

Subject: Agenda item E, Informational item: Status of work on Senate Bill 737, persistent pollutants in Oregon waters
April 29-30, 2010 EQC meeting

Purpose of item This item will update the Oregon Environmental Quality Commission on the Department of Environmental Quality's progress in fulfilling the requirements of Senate Bill 737, regarding persistent pollutants in Oregon's waters. Specifically, DEQ will provide background information on the:

- SB 737 rulemaking and DEQ's process for developing trigger levels
- Draft report to the Legislature regarding the sources of, and opportunities to reduce, priority persistent pollutants in the environment
- Effluent screening for persistent pollutants and DEQ's coordination with municipalities.

EQC will not be asked to take any action at this meeting. DEQ anticipates bringing the proposed rule to EQC in June 2010.

Background In 2007, the Oregon Legislature enacted Senate Bill 737 to address growing concerns about persistent pollutants in Oregon's waters. This legislation required DEQ to develop a list of priority persistent pollutants that could pose a threat to Oregon's waters. DEQ presented the Legislature with the list in October 2009. The statute requires DEQ to report to the Legislature by June 1, 2010, on the various sources of these pollutants based on existing data, and identify source reduction and control measures that can reduce discharges.

Senate Bill 737 also requires municipal wastewater treatment plants that have a dry weather design flow capacity of one million gallons or more per day to submit reduction plans for all listed priority persistent pollutants that occur in their effluent at concentrations above the maximum contaminant level or have been determined by EQC rule must be included. The one million gallon flow threshold includes the 52 largest municipal wastewater treatment plants in Oregon.

Trigger levels for Persistent Pollutant Reduction Plans

Senate Bill 737 requires the 52 largest municipal wastewater treatment plants in Oregon to submit a Persistent Pollutant Reduction Plan for any listed

pollutants in their effluent above a drinking water maximum contaminant level. The deadline for this plan is July 1, 2011.

Many of the persistent pollutants included in the priority persistent pollutant list that are not typically regulated under existing DEQ authorities, and for many of these pollutants there are no established maximum contaminant levels. If no established MCL exists for a pollutant, the commission will determine by rule which pollutants should be included in municipalities' reduction plans. These reduction plans will be incorporated by reference into facilities' existing National Pollution Discharge Elimination System and Water Pollution Control Facility permits.

Of the 118 listed pollutants, 33 pollutants have established maximum contaminant levels. For the remainder, DEQ is proposing to use "trigger levels" as a means to determine which priority pollutants will require reduction plans. A trigger level is the concentration of a pollutant in municipal wastewater treatment plant effluent that, if exceeded, triggers the need for a priority persistent reduction plan for that pollutant.

Trigger level rulemaking

DEQ will propose a rule at the June 2010 EQC meeting that identifies numeric concentrations as trigger levels for the listed pollutants that do not have maximum contaminant levels, and will provide an explanation of how these trigger levels should be applied and evaluated. DEQ selected proposed trigger levels from one of several existing values, in response to both informal public comments and advice from a peer-review panel of six external scientists. Sources of existing values include national or international government documents and relevant scientific literature - sources that have undergone extensive peer and public review and which reflect current scientific information.

DEQ started the rulemaking process in October 2009, and opened a public comment period Jan. 1, 2010, through Feb. 23, 2010. DEQ held four public hearings throughout Oregon in January 2010 to solicit public input and received approximately 140 separate comments, totaling over 150 pages, from 24 separate contributors. DEQ will evaluate comments received and incorporate as appropriate in the final rule package.

Legislative report on measures to reduce persistent pollutants

Senate Bill 737 also required DEQ to prepare a report on the sources of, and source reduction and control technologies applicable to, these listed pollutants. DEQ made a draft copy of the report available for public input during March and April 2010. DEQ held public information sessions in Eugene, Medford, Bend and Portland and posted information on a project website. DEQ will evaluate any input it receives and changes will be reflected in the final report delivered to the Legislature by June 1, 2010.

Municipalities' effluent screening for persistent pollutants

DEQ is coordinating with municipalities regarding effluent screening for persistent pollutants. DEQ is requiring the two effluent samples to determine whether priority persistent pollutants are present above established trigger levels. DEQ's laboratory offered to perform the analysis for municipalities at a reasonable cost. Municipalities are not required to have analyses performed by the DEQ lab.

Key issues

Key issues relate to coordinating the next steps of the project, specifically:

- How will municipalities measure persistent pollutants in their effluent?
- What types of reduction measures will be included in Persistent Pollutant Reduction Plans?
- How will municipalities measure effectiveness of reduction efforts?

Next steps

DEQ plans to request that EQC adopt a trigger level rule, including numeric values and directives for applying trigger levels at the June 2010 meeting.

Effluent screening by municipalities

As soon as trigger levels are set in rule, the 52 largest municipal wastewater treatment plants will begin testing effluent for priority persistent pollutants. These sampling efforts will enable municipalities to determine whether the effluent concentrations exceed trigger levels, and if so, prepare and submit reduction plans to DEQ by the July 2011 deadline. DEQ is working with municipalities to plan coordinated sampling and analysis.

Guidelines for persistent pollutant reduction plans

DEQ is working with municipalities to develop guidelines addressing the types of specific reduction measures that will be included in Persistent Pollutant Reduction Plans due July 2011.

Public involvement

DEQ is committed to using a collaborative approach during every phase of the project, including consultation with interested parties through the project's completion.

EQC involvement

DEQ is not asking for an EQC action at this time. However, staff welcomes the commission's advice or direction for the proposed trigger level rule or draft legislative report.

Attachments

A. Proposed trigger level rule with Table A.

**Available
upon request**

1. "Selection of Trigger Levels for Oregon's Priority Persistent Pollutants" (March 2010).
2. "Senate Bill 737, Development of a Priority Pollutant List (P³L) for Oregon" (October 2009).
3. Fact Sheets pertaining to development of the P³L, development of the trigger level rule, and the SB 737 project in general.
4. Additional information is also available on the SB 737 project website (<http://www.deq.state.or.us/wq/sb737>).

Approved:

Section: _____

Division: _____

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