

Senate Bill 45: Water Quality Permit Program Improvements



State of Oregon
Department of
Environmental
Quality

Background

To address backlogs in the Oregon Department of Environmental Quality's wastewater discharge permit program and to improve the water quality permit program in general, the 2005 Oregon Legislature passed Senate Bill 45, which recommended several program changes.

The bill was based on recommendations made by the Blue Ribbon Committee on Wastewater Permitting, comprised of industry, environmental and local government representatives.

This fact sheet provides an update on program improvements and challenges that the program continues to face.

DEQ water quality permit program

DEQ is responsible for protecting and restoring Oregon's waters, and carries out the federal Clean Water Act in Oregon. The act requires permits to specify amounts of pollution a facility can legally discharge into Oregon's waters in order to meet water quality standards. DEQ issues permits for more than 6,300 facilities (excluding onsite septic system permits).

DEQ's wastewater permitting program regulates and minimizes adverse impacts of pollution on Oregon's waters from "point sources" of pollution, which discharge wastewater into water or onto land through a pipe or a discernible channel. These point sources operate under terms of a federal National Pollutant Discharge Elimination System (NPDES) permit or state Water Pollution Control Facilities (WPCF) permit issued by DEQ.

To effectively protect water quality, DEQ must:

- Issue discharge permits that adequately evaluate and limit pollution to prevent an adverse impact on receiving waters and the beneficial uses of those waters (drinking, swimming, fishing, aquatic habitat, etc.)
- Inspect facilities and review compliance monitoring results
- Take prompt and appropriate enforcement actions when violations occur
- Provide essential technical assistance for facility owners and operators to help assure continuing compliance at minimum expense to permit holders

Permit backlog

In 2001, about 60 percent of major NPDES individual permits were expired. This backlog was due to the increasing number of permitted facilities (from 2,700 in 1994 to 4,000 in 2001), the increasing complexity of permitting requirements, and lack of state permitting staff.

DEQ, Blue Ribbon Committee develop long-term solutions

DEQ convened the Blue Ribbon Committee on Wastewater Permitting in 2003 to identify improvements to the wastewater program. The committee included industry, environmental and local government representatives. In 2004, the group, working with DEQ, recommended that DEQ implement program changes over a four-year period, to accomplish the following:

- Create a watershed-based permitting cycle to improve permit planning, accountability and follow-up, as well as integration with other water quality programs
- Provide for up-to-date, consistent wastewater permitting to improve the timeliness and quality of DEQ-issued permits
- Develop a strong, effective and appropriate compliance and enforcement program
- Report annually on progress made to the Oregon Environmental Quality Commission and Legislature

Challenges

Since DEQ began implementing the committee's recommendations in 2005, there have been successes and challenges. During 2009, DEQ encountered several obstacles to meeting its commitments, including the goal to reduce the backlog to no more than 10 percent. These obstacles included:

- Litigation - During 2009 the DEQ wastewater permit program was involved in numerous lawsuits. Some of the litigation required the program to postpone permit issuance and divert resources from permit development to litigation response.
- U.S. Environmental Protection Agency objections about permitting of Sanitary Sewer Overflows - EPA raised objections to the General Conditions wording of NPDES permits that DEQ has used since 2004 to incorporate the state water quality standard for bacteria into permits for municipal

Water Quality Division

Wastewater Management
Program
811 SW 6th Avenue
Portland, OR 97204
Phone: (503) 229-5656
(800) 452-4011
Fax: (503) 229-6037
www.oregon.gov/DEQ/

Contacts:

Neil Mullane
(503) 229-5327

Annette Liebe
(503) 229-5589

Alternative formats

Alternative formats (Braille, large type) of this document can be made available. Contact DEQ's Office of Communications and Outreach, Portland, at (503) 229-5696, or call toll-free in Oregon at 1-800-452-4011, ext. 5696.

Updated: 2/3/10
By: Chris Clipper
09-WQ-007

sewage treatment plants. DEQ resolved this issue in late 2009 and resumed processing municipal permits.

- **Staffing issues** – Statewide, six (out of 62) positions were vacant in the wastewater permit program for some or all of the year during 2009. Replacing these positions has been a challenge, particularly for the engineering positions. In cases when qualified staff have been hired, there is an impact on the availability of existing staff who are re-directed to train new hires instead of working directly on permits.

Permit program updates

1. Administering a watershed approach toward water pollution control permitting.

Status: DEQ developed an annual watershed plan that outlines when it will inspect permits for large municipal and industrial facilities, as well as for smaller facilities in selected watersheds. In 2009 DEQ met this goal inspecting 50 percent of larger facilities and 267 smaller facilities. DEQ also set a goal of contacting all facilities two years before their permit renewal date, in order to get early involvement and collect data. During 2009, DEQ contacted the majority of facilities at least two years before their renewal date.

2. Issuing permits on a watershed basis.

Status: DEQ's goal was to issue 95 percent of permits on a watershed basis by 2010. However, legal issues caused DEQ to delay the issuance of certain permits over the past three years and DEQ was unable to issue permits according to the 2005 plan. Those legal issues have been largely resolved and DEQ recently revised its watershed-based permit issuance plan to reflect the current status.

3. Reducing permit backlog.

Status: DEQ was on track to meet the goal of reducing the backlog for major individual NPDES permits to 10 percent by the end of 2007 until EPA objected to the Sanitary Sewer Overflows permit language and DEQ became engaged in several lawsuits. Because only some of the lawsuits were resolved during 2009 and the Sanitary Sewer Overflow permit language was agreed to late in the year, the major NPDES permit backlog had increased to 76 percent at the end of 2009 – up from 50 percent at the end of 2008. However, overall permit backlog, which includes all major, minor and general WPCF and NPDES permits, was 10 percent at the end of 2009.

4. Timeliness of applying general permit coverage to applicants.

Status: DEQ set a target of assigning permit coverage within 30 days of receiving a complete new application. In 2009, the average time to assign coverage for applicants to an existing general permit was 10 days. Ninety-two percent of new permit applicants were registered within 30 days.

5. Timeliness of discharge monitoring report review.

Status: DEQ's goal is to review monitoring reports for individual permits within 30 days of receipt. DEQ has implemented the Oregon Discharge Monitoring System, a database designed to track and evaluate monitoring reports for permit limit exceedances and any information that needs to be further examined. During the fourth quarter of 2009, DEQ reviewed 97 percent of the discharge monitoring reports for the 68 major sources within 30 days of receipt.

6. Timeliness of issuing permit noncompliance notifications.

Status: DEQ is in the early planning stages for developing an Agency Compliance and Enforcement System that will include information from DEQ's Land Quality, Air Quality and Water Quality programs. Until the new database is complete, DEQ staff will track noncompliance notifications through other means.