

Proposed Rulemaking Announcement

Amendments to Water Quality Standards: Arsenic

Background

The Oregon Department of Environmental Quality is proposing to change Oregon's water quality standards for arsenic and is seeking public comments by Wednesday, Feb. 23, 2011. This proposal revises criteria established to protect human health and adds a requirement for certain wastewater dischargers to develop arsenic reduction plans.

DEQ originally proposed revisions to the state's arsenic, iron and manganese standards for public comment in August 2010. It revised the proposed arsenic criteria based on comments received. DEQ is reopening public comment and now seeks comment on the revised proposed arsenic criteria. The Oregon Environmental Quality Commission adopted the iron and manganese standards revisions in December 2010.

Why the rule changes are needed

These changes are needed to account for the presence of arsenic, a naturally-occurring earth metal, in Oregon waters, and to protect human health. Without these changes, DEQ and regulated parties could be required to expend resources that will not result in health benefits.

Rulemaking objective

This rulemaking establishes water quality criteria and an arsenic reduction policy that protect human health, are scientifically based, and target public and private resources toward environmentally meaningful actions. DEQ reviewed available scientific information and concluded that the proposed criteria and the arsenic reduction policy meet these objectives. In addition, the U.S. Environmental Protection Agency will need to concur with that conclusion when it approves the criteria.

Who may be affected?

Industries and municipalities that have arsenic in their wastewater and discharge directly to an Oregon surface water body may be affected. The overall effect should be a benefit to dischargers because the proposed criteria are less stringent than the existing criteria. DEQ does not expect the changes to adversely affect the health of people drinking water or eating fish in Oregon.

Proposal development

DEQ used several documents and worked with a

stakeholder advisory group and EPA to develop the arsenic standard revisions. The primary document is: *Water Quality Standards Review and Recommendations: Arsenic*, DEQ Water Quality Standards and Assessment Section, Jan. 2011. (This is an update of the August 2010 publication.)

Copies of documents used to develop this rulemaking proposal are available on DEQ's website at:

<http://www.deq.state.or.us/wq/standards/toxics.htm> and may be reviewed at DEQ's headquarters office at 811 S.W. 6th Ave., Portland, Oregon. Please contact Stephanie Brandon at 503-229-5013, or toll-free in Oregon at 1-800-452-4011, ext. 5013 for times when documents are available for review.

DEQ worked with a stakeholder workgroup to develop the proposed rule amendments. The workgroup included representatives from Tribes, industry, environmental interests, cities and others. More information on this process is available on DEQ's website at:

<http://www.deq.state.or.us/wq/standards/toxics.htm>

Additional materials available

- Proposed Rule changes
- Statement of Need and Fiscal Impact
- Land Use Evaluation Statement
- Relationship to Federal Requirements

The above documents provide additional information related to this proposed rulemaking and can be viewed on DEQ's website on "Proposed Rule Revisions"

<http://www.deq.state.or.us/regulations/proposedrules.htm>

How to comment

Interested persons may submit comments on the proposed rulemaking in writing via mail, fax or e-mail at any time prior to the comment deadline of 5 p.m. Wednesday, Feb. 23, 2011. Written and oral comments can be submitted during any of the public hearings listed below. It is not necessary to attend a hearing in order to comment. Written comments received prior to the deadline are treated equally with oral comments.



State of Oregon
Department of
Environmental
Quality

Water Quality Division

811 SW 6th Avenue
Portland, OR 97204
Phone: (503) 229-6691
(800) 452-4011
Fax: (503) 229-6037
Contact: Debra Sturdevant
waterqualitystandards@deq.state.or.us

www.oregon.gov/DEQ/

The Department and the EQC have the statutory authority to address this issue under ORS 468B.010, 468.020 and 468B.035. These rules implement ORS 468B.048



Written comments may be mailed to Debra Sturdevant, Oregon DEQ, Water Quality Division, 811 SW 6th Ave., Portland, OR 97204.

Comments may also be faxed to Debra Sturdevant at (503) 229-6037, or e-mailed to: waterqualitystandards@deq.state.or.us.

(DEQ will acknowledge e-mail comments immediately. Comments and attachments are limited to 10 MB. If you do not receive an automatic response, or your comments and attachments will exceed this limit, please contact Debra Sturdevant, Portland, at 503-229-6691 or call toll-free in Oregon at 1-800-452-4011, ext. 6691.)

If there is a delay between servers, e-mails may not be received before the deadline.

Public hearings

DEQ held two public hearings in September 2010. No additional hearings are scheduled.

Comment deadline is Feb. 23, 2011

All comments are due to DEQ by 5 p.m., Wednesday, Feb. 23, 2011. DEQ cannot consider comments from any party **received** after the deadline for public comment.

How will rules be adopted?

DEQ will prepare a response to all comments received during the public hearing and comment period pertaining to the arsenic revisions and may modify the proposed rules. DEQ plans to recommend that the Oregon Environmental Quality Commission adopt the rules at the commission's April 21-22, 2011 meeting. DEQ will notify persons of the time and place for final commission action if they submit comments during the hearing or comment period or request to be placed on DEQ's mailing list for this rulemaking.

Accessibility information

DEQ is committed to accommodating people with disabilities. Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ Communications and Outreach at (503) 229-5696, Portland, or call toll-free in Oregon at (800) 452-4011; fax to (503) 229-6762; or e-mail deqinfo@deq.state.or.us.

People with hearing impairments may call 711.