

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT

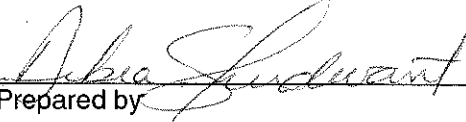

Water Quality Standards Revision, West Division Main Canal near Hermiston, Oregon

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	Water Quality Standards Revision, West Division Main Canal near Hermiston, Oregon (OAR 340-041-0310, 340-041-0315, Tables 310A and 310B)
Statutory Authority or other Legal Authority	ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes Implemented	ORS 468B.030, 468B.035 & 468B.048
Need for the Rule(s)	The draft proposed rule revisions are needed to correct and more accurately designate beneficial uses and their associated water quality criteria for the West Division Main Canal (WDMC). The current beneficial uses were broadly designated for the subbasin, including uses that are not existing or feasibly attainable in the canal. In addition, the corrected standards, which are less stringent, make possible the planned discharge of treated wastewater by the City of Hermiston to the canal.
Documents Relied Upon for Rulemaking	No documents, reports or studies, were relied upon to determine the fiscal and economic impact of this proposed rule. Documents relied upon for this rulemaking include: DEQ 2011, draft. <i>Water Quality Standards Revision, West Division Main Canal near Hermiston, Oregon</i> EPA 1972. <i>Water Quality Criteria 1972.</i>
Requests for Other Options	Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.
Fiscal and Economic Impact, Statement of Cost Compliance	
Overview	<p>The proposed rulemaking revises the designated beneficial uses for the West Division Main Canal and establishes site-specific water quality criteria for the canal that protect those uses. The canal is a man-made, concrete lined irrigation water conveyance that is screened at both ends to prevent fish from entering the canal. The current beneficial uses were designated broadly for the Umatilla subbasin, treating the canal as similar to a natural stream. The rulemaking removes uses that do not exist and are not feasibly attainable in the canal, including aquatic life, public and private domestic water supply and fishing. DEQ's proposed revisions will result in water quality standards based on the actual or possible uses of the canal: irrigation, livestock watering and water contact. DEQ also proposes to adopt site-specific water quality criteria to protect the revised beneficial uses of the canal, including irrigation and livestock watering</p> <p>The proposed water quality criteria for the canal will be less stringent than existing criteria. The new criteria will make discharge to the canal a feasible alternative for the City of Hermiston (indirect effect of rule). The City currently combines land application and discharge to the Umatilla River for warm season discharge. Canal discharge would eliminate the need for both during the warm season.</p> <p>DEQ does not expect that the revisions to the water quality standards will result in a degradation of water quality within the canal; rather, the proposed revisions are intended to protect existing uses and water quality. As a result, no businesses or land uses will be adversely influenced</p>
Impacts on the General Public	Regarding direct effects of the proposed rule, there are no near-term fiscal or economic impacts to the public. There are no 303(d) listed waterbodies that could feasibly be influenced by the canal, no TMDLs for the canal and no wastewater permitted facilities that rely on the canal other than the prospective discharge of the Hermiston wastewater treatment plant (WWTP) to the canal.

	<p>If the water quality standards for the canal are not changed and the City is required to conduct additional treatment before discharging to the canal or the Umatilla River, or find another alternative for their wastewater disposal, this could create additional expense for residents who are ratepayers of the WWTP.</p> <p>Regarding long-term impacts, the proposed rule could result in fewer regulatory requirements that may have arisen in the future to achieve the over-generalized standards historically in place. Potential unnecessary costs to the Irrigation District and agricultural community will be prevented.</p>										
<p>Impacts to Small Business (50 or fewer employees – ORS183.310(10))</p>	<p>DEQ expects no direct impacts to small business as a result of the proposed rule revision.</p> <p>Subsequent to DEQ's revisions to the water quality standards for the canal, planned upgrades to the wastewater treatment plant and decisions made by the City of Hermiston regarding its planned discharge to the WDMC may have additional effects. These changes in the City of Hermiston's wastewater treatment plant could affect the rates small businesses pay to the city that discharge to its collection system. Moving the treatment plan outfall and discontinuing the contract with LGW Ranch for land application could adversely affect this small business by eliminating this source of water for the ranch.</p>										
<p>Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))</p>	<table border="1"> <tr> <td>a) Estimated number of small businesses subject to the proposed rule</td> <td> <p>A number of small and large farms rely on the WDMC to supply their irrigation water. The revised water quality standards will protect water quality for irrigation and livestock watering uses, and will remove more stringent beneficial uses and criteria for drinking water and fisheries.</p> <p>It is possible that this proposed rule will reduce the level of effort and costs required of small business farms by an unknown amount, through targeting less stringent, though appropriate, water quality standards.</p> </td> </tr> <tr> <td>b) Types of businesses and industries with small businesses subject to the proposed rule</td> <td>None.</td> </tr> <tr> <td>c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services</td> <td>None.</td> </tr> <tr> <td>d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule</td> <td>None.</td> </tr> <tr> <td>e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking</td> <td>The West Extension Irrigation District, which operates WDMC, has been continuously involved with the development of the proposed rule revisions, supporting document development, and in communications with the City of Hermiston.</td> </tr> </table>	a) Estimated number of small businesses subject to the proposed rule	<p>A number of small and large farms rely on the WDMC to supply their irrigation water. The revised water quality standards will protect water quality for irrigation and livestock watering uses, and will remove more stringent beneficial uses and criteria for drinking water and fisheries.</p> <p>It is possible that this proposed rule will reduce the level of effort and costs required of small business farms by an unknown amount, through targeting less stringent, though appropriate, water quality standards.</p>	b) Types of businesses and industries with small businesses subject to the proposed rule	None.	c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services	None.	d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule	None.	e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	The West Extension Irrigation District, which operates WDMC, has been continuously involved with the development of the proposed rule revisions, supporting document development, and in communications with the City of Hermiston.
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e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	The West Extension Irrigation District, which operates WDMC, has been continuously involved with the development of the proposed rule revisions, supporting document development, and in communications with the City of Hermiston.										
<p>Impacts on Large Business (all businesses that are not "small businesses" under ORS183.310(10))</p>	<p>A number of large farms rely on the WDMC and are located along the canal. All are involved in Oregon Department of Agriculture's water quality planning process for nonpoint source pollution reduction. This proposed rule could reduce the level of effort and costs to large business farms by an unknown amount, through targeting less stringent standards.</p>										
<p>Impacts on Local Government</p>	<p>An indirect effect of this rule is to increase the feasibility of the planned WWTP discharge to WDMC, thus reducing the overall project cost for the City of Hermiston.</p> <p><u>Explanatory note:</u> Partly due to concerns of public perception of discharge of treated sewage to a canal used for irrigation of edible crops, the City plans a high level of treatment involving a membrane bioreactor (costing more than \$22 million) for discharge to the canal. The City assessed several discharge alternatives and concluded that the canal is the most sustainable, reliable and affordable solution over the long-term. Other alternatives considered by the City were approximately \$5 million</p>										

	more to construct and would have considerably higher operating costs.
Impacts on State Agencies other than DEQ	The proposed rule is not likely to have a fiscal impact on ODA or other state agencies, as the canal has not been identified for water quality improvement efforts.
Impacts on DEQ	<p>The process of preparing the standards revision document and carrying out the rule change process is consuming 0.4 FTE of NRS-4 staff time (aggregate input of basin coordinator, standards and permitting staff) over the course of one year (2011), and 0.1 FTE of NRS-4 staff time for an additional 6 months – through July of 2012.</p> <p>Indirect: Permit development for the canal discharge will require added effort compared to permit renewal for a configuration more similar to the existing system. DEQ estimates this added effort at 0.05 FTE for EE 3 plan review and 0.1 FTE for NRS 4 permit staff for one year.</p>
Assumptions	None.
Housing Costs	DEQ has determined that this proposed rulemaking will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single-family dwelling on that parcel.
Administrative Rule Advisory Committee	A formal Advisory Committee was not assembled. DEQ, the City of Hermiston, the West Extension Irrigation District and the US Bureau of Reclamation all implemented outreach associated with either this rule change or its side-benefit of providing for WWTP discharge to the WDMC. DEQ convened representatives of the environmental community and described the proposed revision, and discussed the rule change with various agencies and the Confederated Tribes of the Umatilla Indian Reservation. For each, DEQ asked individuals for their level of interest and type of involvement they would wish to have. Generally, the proposed rule change was viewed as straightforward administrative correction not subject to pivotal decisions. No interest in forming an advisory group was expressed by any of the individuals contacted. Accordingly, DEQ has kept potentially interested parties apprised and sought public and professional input throughout, without forming a formal advisory group.

	Debra Sturdevant	9/14/11
Prepared by	Printed name	Date
	Jim Roys, Financial Services Manager	9/14/11
Approved by DEQ Budget Office	Printed name	Date