

Proposed Rulemaking Announcement

Revised 'Initiation Level' Rule for Persistent Pollutants in Wastewater

Revisions pertain to levels of persistent pollutants that initiate municipal pollution reduction plans (Oregon Adm. Rule 340-045-0100)

Background

The 2007 Oregon Legislature passed Senate Bill 737 to address persistent toxic pollutants in water that have documented impacts on human health and the environment.

In June 2010, to implement the statute, the Oregon Environmental Quality Commission passed the Initiation Level Rule, establishing the concentration of a pollutant in municipal wastewater treatment plant or facility effluent which, if exceeded, initiates or prompts the need for a creating a persistent pollutant reduction plan (Oregon Administrative Rule 340-045-0100). Oregon's 52 largest municipal wastewater treatment facilities then sampled effluent twice to determine whether any of 117 persistent pollutants were present above plan initiation levels.

Why is the rule needed?

Municipal sampling revealed pollutant levels exceeding plan initiation levels at every wastewater treatment facility sampled for cholesterol and coprostanol, and only a handful of other initiation level exceedances for other persistent pollutants. Cholesterol and coprostanol are naturally-occurring byproducts of human digestion.

Based on sampling results, the commission passed a temporary rule in February 2011 to suspend the requirement for municipalities to address cholesterol and coprostanol in persistent pollutant reduction plans. While toxicity models concluded that cholesterol and coprostanol are toxic and persist in aquatic ecosystems, meeting the criteria for inclusion on the Priority Persistent Pollutant List, there is limited published scientific data on toxicological effects to corroborate the model estimates. Further, there are no feasible municipal pollution prevention activities or cost-effective treatment options to reduce cholesterol or coprostanol.

The Initiation Level rule needs clarification regarding the circumstances under which a

permittee has met the requirements and no longer needs to have a reduction plan in place. Improvements can also be made to the rule by focusing the list of pollutants for which municipalities must monitor in the future, based on newly available data.

What is the objective of this rulemaking?

The proposed rule suspends the requirement to develop a reduction plan for the two common pollutants cholesterol and coprostanol, and allows for DEQ to better focus the list of pollutants for which permittees that become subject to the rule in the future must monitor. Proposed revisions to the rule also provide clarity on the circumstances under which a permittee meets the requirements and no longer needs to have a reduction plan in place.

Who may be affected?

The rule imposes fewer requirements for Oregon's municipal wastewater facilities with a dry-weather design flow capacity of one million gallons per day. The rule will result in savings for the 52 municipalities currently subject to SB 737 because it suspends the requirement to develop reduction plans for cholesterol and coprostanol. The revised rule could potentially result in savings for municipal wastewater treatment facilities that become subject to the rule in the future, because it suspends the requirement to develop a reduction plan for cholesterol and coprostanol and allows DEQ to focus the list of pollutants for which a permittee must monitor.

How was this proposal developed?

DEQ compiled information on potential municipal pollution prevention activities for persistent pollutants detected in wastewater treatment facility effluent. DEQ was not able to identify potential municipal pollution prevention activities for cholesterol and coprostanol. These naturally occurring byproducts of human digestion are present in human waste regardless of what people eat, and therefore are not amenable to pollution prevention.



State of Oregon
Department of
Environmental
Quality

Water Quality Division

811 SW 6th Avenue
Portland, OR 97204
Phone: (503) 229-5622
(800) 452-4011
Fax: (503) 229-6037
Contact: Cheryl Grabham
grabham.cheryl@deq.state.or.us
www.oregon.gov/DEQ/

The Department and the EQC have the statutory authority to address this issue under ORS 468.020 and 468B.141. These rules implement ORS 468B.138



DEQ evaluated the potential environmental and human health threats of discharging cholesterol and coprostanol into Oregon's waters, as summarized in the technical memo "Aquatic Toxicity of Sterols and Stanols" (10/25/10, available on request). DEQ concluded that there are few available studies addressing potential environmental and human health threats of discharging cholesterol and coprostanol into Oregon's waters, and those that do exist do not present conclusive information about their potential harmful effects on the well-being of humans, fish or wildlife.

Although Senate Bill 737 focuses on pollution prevention, DEQ thoroughly investigated activities that could reduce pollutants detected above plan initiation levels in effluent. Therefore, DEQ evaluated availability and cost-effectiveness of treatment options where pollution prevention activities don't exist. DEQ reviewed relevant literature and affirmed that cost-effective treatment is not available, as outlined in the technical memo: "Treatment of Sterols and Stanols" (12/20/10, available on request).

DEQ met with a volunteer stakeholder sounding board in October 2010 and January 2011 to discuss options for addressing pollutants with no feasible municipal pollution prevention activities or treatment options.

After carefully considering all information collected and received, DEQ determined that Persistent Pollutant Reduction Plans for cholesterol and coprostanol are not necessary for these two pollutants. Other rule revisions resulted from discussions about the program's future and relied on analytical results from municipal effluent screening.

All supporting documents for this rulemaking are available on DEQ's project website at: <http://www.deq.state.or.us/wq/SB737>.

Copies of documents DEQ used to develop this rulemaking proposal can be reviewed at DEQ's headquarters office at 811 SW Sixth Ave., Portland, Oregon. Contact Cheryl Grabham at 503-229-5518 (toll-free in Oregon at 1-800-452-4011, ext. 5518) or by electronic mail at grabham.cheryl@deq.state.or.us for times when documents are available for review.

Additional documents available

- Proposed rule
- Statement of Need and Fiscal Impact
- Land Use Evaluation Statement
- Relationship to Federal Requirements
- Technical memo "Aquatic Toxicity of Sterols and Stanols" (10/25/10)
- Technical memo: "Treatment of Sterols and Stanols" (12/20/10)

These documents provide additional information about this proposed rulemaking and can be viewed at "Proposed Rule Revisions": <http://www.deq.state.or.us/regulations/proposedrules.htm>.

How to comment/comment deadline

People can comment on the proposed rulemaking via mail, fax or email at any time before the comment deadline of 5 p.m. Thursday, June 30, 2011. Written and oral comments can be submitted during the public hearing specified below. It is not necessary to attend a hearing in order to comment.

Written comments may be mailed to Cheryl Grabham, Oregon DEQ, Water Quality Division, 811 SW Sixth Ave., Portland, OR 97204-1390.

Comments may be faxed to Cheryl Grabham at 503-229-6037 or mailed electronically to: comment-PIL@deq.state.or.us (Electronic mail comments will be acknowledged 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 the DEQ staff listed above.) If there is a delay between servers, e-mails may not be received before the deadline.

Public hearing June 15 in Portland

DEQ will hold one public hearing on this proposal.

**Wednesday, June 15, 2011 at 4:00 p.m.,
DEQ Headquarters Office, 10th Floor, Room
EQC-A, 811 SW 6th Ave., Portland.**

The hearing will begin with a brief overview of the proposed rule, followed by the opportunity for members of the public to provide oral and written comment. DEQ will record and review all comments.

How will the rule be adopted?

DEQ will respond to all comments received during the public hearing and comment period

and may modify the proposed rules. DEQ plans to recommend that the Oregon Environmental Quality Commission adopt the rule at the commission's October 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 or call toll-free in Oregon at 1-800-452-4011; fax to 503-229-6762; or email deqinfo@deq.state.or.us.

People with hearing impairments may call 711.