

State of Oregon
Department of Environmental Quality

**Industrial Stormwater Advisory Committee
Meeting 4- October 20, 2009**

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Subject: Monitoring waiver

This memorandum provides the committee with background information and an overview of the issues regarding whether facilities should monitor their discharge once a year even if they have a monitoring waiver.

Background:

The department agreed to seek input from the advisory committee on whether the minimum monitoring provisions should be increased so that all facilities monitor for benchmarks and impairment pollutants at least once a year, unless there is adequate evidence that the facility does not discharge the pollutant (see 7.a. of the settlement).

Waiver requirements under DEQ and EPA's permits:

DEQ's current permits allow facilities that meet benchmark(s) four consecutive times to obtain a monitoring waiver and stop sampling for benchmark(s) for the remainder of the permit term (see Schedule B, condition 3 of the permits). The purpose of the monitoring waiver is to create an incentive for facilities to implement appropriate BMPs to reduce the pollutants in their discharge below the benchmark concentrations in the permit. Facilities must submit for DEQ approval a request for a monitoring waiver and the accompanying analytical results that show they have met benchmark(s) four consecutive times.

Many facilities in Oregon do not have a monitoring waiver for all the benchmarks in the permit. The monitoring waiver can apply to individual benchmark parameters and if there are multiple outfalls, to individual outfalls. For example, a facility with multiple outfalls that met the zinc benchmark four consecutive times at one outfall will only receive a monitoring waiver for that specific benchmark parameter at that specific outfall. The facility will continue to sample for the remaining benchmark parameters. DEQ will review the annual Discharge Monitoring Reports (DMRs) to ensure that the facility is monitoring the appropriate benchmark parameters.

DEQ can revoke the monitoring waiver for the following reasons:

- Monitoring efforts used to establish the waiver were improper or the sampling results were incorrect;
- Changes to site conditions are likely to affect the characteristics of the facility's discharge, or
- DEQ or the facility conducts additional monitoring and the sampling results exceed benchmark(s).

In limited circumstances, DEQ has revoked a monitoring waiver due to improper sampling results that supported the waiver or subsequent sampling that showed that the facility is exceeding the benchmarks.

The MSGP permit allows facilities to seek a monitoring waiver for the remainder of the permit term if the average of four samples is less than the benchmark(s). If significant changes occur at a facility, the facility is required to notify EPA, who may request that facility resume benchmark monitoring.

Both DEQ and EPA's permits allow facilities to obtain a monitoring waiver if they can establish that the benchmark exceedances are due to presence of that pollutant in the background natural conditions. Also, under both permits, facilities cannot obtain a monitoring waiver for the visual monitoring requirements.

Issues:

DEQ interprets the monitoring provisions in the settlement agreement to require facilities to sample their discharge at least four times before applying for a monitoring waiver. After receiving the monitoring waiver, facilities will sample their discharge once a year for the remainder of the permit term. Annual monitoring would cease if the facility established that they did not discharge a pollutant.

Based on this monitoring scheme, DEQ has identified the following issues:

- EPA's benchmarks are much lower than DEQ's current benchmarks. As a result, it will be much more difficult for facilities to qualify for a monitoring waiver under the new permits. DEQ will evaluate the data compiled in the Industrial Stormwater database to estimate the number of facilities that may qualify for a monitoring waiver under the new permits. DEQ will share these projections with the committee at the November 2009 meeting.
- Collecting one grab sample annually may not provide sufficient information about the pollutants in the discharge given the variability of pollutant concentrations from storm to storm and within a single storm event.
- DEQ will have to expend additional resources when it is reviewing the annual DMRs to track that the facilities are conducting the required monitoring and sampling the appropriate benchmark parameters. For example, a facility may only have a waiver for zinc and sample that parameter once a year, but have to sample the remaining benchmark parameters four times a year. Rather than increasing the complexity of the monitoring requirements, DEQ would prefer to prioritize its limited resources and conduct additional inspections to ensure that facilities with waivers are maintaining and implementing BMPs and have not changed activities on site that can affect the characteristics of their discharge.
- Is it appropriate to require annual monitoring for a particular pollutant if the facility that has obtained a waiver by establishing that the pollutant is present in the discharge solely due to background natural conditions?