

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY
Land Use Evaluation Statement

Rulemaking Proposal
For

**Revised Water Quality Standards for Human Health Toxic Pollutants and Revised
Water Quality Standards Implementation Policies**

1. Explain the purpose of the proposed rules.

DEQ's currently effective human health toxics criteria are based on a fish consumption rate that does not provide adequate protection for the amount of fish and shellfish consumed by Oregonians. On June 1, 2010, EPA disapproved human health toxics criteria, which were submitted for approval in 2004 and were based on a fish consumption rate of 17.5 grams per day. EPA disapproved the human health toxics criteria because the fish consumption rate was not considered protective of many Oregonians. DEQ is addressing EPA's disapproval by proposing to use a higher fish consumption rate of 175 grams per day to calculate more protective human health toxics criteria. If DEQ does not promulgate revised criteria, EPA must conduct rulemaking to promulgate human health toxics criteria for Oregon.

This rulemaking also proposes new rule language and revisions to existing rule language for various NPDES implementation tools developed to assist dischargers in complying with revised standards. Further, revisions to the water quality standards and Total Maximum Daily Load, or TMDL, rules are proposed to make DEQ's rules consistent with state statutes affecting nonpoint sources of pollution and for DEQ to assign load allocations to significant land and air sources in TMDLs.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination Program?

Yes No

a. If yes, identify existing program/rule/activity:

This rulemaking as it relates to TMDLs and water quality standards could result in the need for local governments to review and revise land use plans and regulations implementing Goal 6. DEQ will

coordinate with local governments to ensure compatibility with TMDLs as provided in Part IV of DEQ's State Agency Coordination agreement.

- b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?**

Yes X No _____ (if no, explain):

- c. If no, apply the following criteria to the proposed rules.**

In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

Revisions to the water quality standards and Total Maximum Daily Load, or TMDL, rules could affect land uses; however, these proposed changes are adequately covered by the existing statewide goals. DEQ will coordinate with local governments to ensure compatibility with TMDLs as provided in Part IV of DEQ's State Agency Coordination agreement.

While the water quality standards program in general could affect land uses, the proposed rule amendments do not. This rule amendment revises the criteria values DEQ will use to regulate water quality but the beneficial uses of the states' waters will not be changed and the water quality standards will continue to protect those uses.

- 3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures DEQ will use to ensure compliance and compatibility.**

Not applicable