



Working with more than 95 community wastewater treatment and stormwater management agencies
to protect Oregon's water

107 SE Washington, Suite 242
Portland, Oregon 97214
(503) 236-6722 www.oracwa.org Fax (503) 236-6719

December 2, 2015

Mark Hynson
Oregon DEQ – Northwest Region
Water Quality Specialist
700 NE Multnomah Street; Suite 600
Portland, OR 97232-4100

Sent by e-mail to wr.wqpermit@deq.state.or.us (return receipt requested)

The Oregon Association of Clean Water Agencies is a private, not-for-profit organization of Oregon's wastewater treatment and stormwater management agencies, along with associated professionals. Our 115+ statewide members are dedicated to protecting and enhancing Oregon's water quality. Our members provide sewer and stormwater management services to 2.4 million Oregonians, serving 63% of Oregon's businesses and homes. ACWA represents 95% of the municipal major NPDES permit holders in Oregon, including Clean Water Services and its treatment plants at Durham, Rock Creek, Forest Grove, and Hillsboro

ACWA members are very concerned with the DEQ's approach of including requirements to meet specific Quantitation Limits (QLs) in NPDES permits. This is not a requirement of federal regulations, is not in use in other Pacific Northwest States - - including states where EPA writes the NPDES permits - - and is not based on sound science. ACWA's concerns over requiring specific QLs in NPDES permits include:

- Specifying QLs as opposed to Methods: A permittee can certainly specify the method its laboratory will use for analyzing a sample for the effluent characterization pollutants listed in their permit; however the permittee does not have direct control over whether a specific QL can be met each time for a particular sample and analysis. While it is appropriate to require selection of methods that have the capability of achieving specific QLs, which is the intent of the EPA's rule on "*Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting*", it is not appropriate to require—as an enforceable condition—the attainment of a specific maximum QL for every pollutant in every sample analyzed.
- The revised QLs dramatically increase laboratory costs for no environmental gain.

Michelle Cahill, Chair Jennifer Belknap Williamson, Vice Chair
Amy Pepper, Secretary/Treasurer

- ACWA worked with DEQ to examine and set QLs several years ago, however it was never our understanding that the QLs would become enforceable permit requirements. Furthermore, due to permit issuance delays, there is very little practical experience at DEQ, in the contract laboratory community, and in the permit holder community at meeting the QLs set at meetings held in May and September 2007.
- QLs at the proposed levels, with anticipated wastewater matrix interference, diverts DEQ regional permit writers away from core tasks including permit writing, inspections and Discharge Monitoring Report review, by having to devote time to working with permit holders when QLs have not been met, resolving if a higher QL is appropriate or if resampling will be necessary.
- The DEQ enforcement response to not meeting QLs is unclear.

EPA Sufficiently Sensitive Methods

DEQ staff have indicated that these QL revisions are needed to comply with the EPA ‘Sufficiently Sensitive Methods’ regulations – see National Pollutant Discharge Elimination System (NPDES): Use of Sufficiently Sensitive Test Methods for Permit Applications and Reporting, 79 Fed. Reg. 49001 (August 19, 2014) (amending 40 CFR Parts 122 and 136). We highlight that the EPA regulations are related to ‘sufficiently sensitive’ **methods**. (emphasis added).

Information from the EPA regulations shows that EPA is suggesting that appropriate methods, not QLs, be included in NPDES permits:

Although EPA has approved multiple analytical methods for individual pollutants, the Agency has historically expected that applicants would select from the array of available methods a specific analytical method that is sufficiently sensitive to quantify the presence of a pollutant in a given discharge. EPA has not expected that NPDES permit applicants would select a method with insufficient sensitivity, thereby masking the presence of a pollutant in their discharge, when an EPA-approved sufficiently sensitive method is available. Further, EPA anticipated that NPDES permitting authorities would specify an EPA-approved method in an NPDES permit where the Director determined that a particular analytical method was needed to provide meaningful results relative to the permit limit. EPA believes that the authority to prescribe a specific analytical method in an NPDES permit exists under the current regulations. However, some state permitting authorities expressed concern that this authority was not explicit in current regulations, thus limiting states' ability to prescribe an appropriate analytical method where needed to assess compliance with permit limits. This rule requires that, where EPA-approved methods exist, NPDES applicants must use sufficiently sensitive EPA-approved analytical methods when quantifying the presence of pollutants in a discharge and that the Director must prescribe that only sufficiently sensitive EPA-approved methods be used for analyses of pollutants or pollutant parameters under the permit. (emphasis added) EPA and state permitting authorities use data from the permit application to determine whether pollutants are present in an applicant's discharge and to quantify the levels of all detected pollutants. These pollutant data are then used to determine whether technology- or water quality-based effluent limits are needed in the facility's NPDES permit. It is

critical, therefore, that applicants provide data that have been measured at levels that will be meaningful to the decision-making process. Among other things, data must be provided that will enable the Director to make a sound “reasonable potential” determination and, if necessary, establish appropriate water quality-based permit limits. The same holds true for monitoring and reporting relative to permit limits established for regulated parameters. The intent is for applicants and permittees to use analytical methods that are capable of detecting and measuring the pollutants at, or below, the respective water quality criteria or permit limits. (emphasis added).

NPDES Permitting Examples

As DEQ knows, EPA Region 10 writes the NPDES permits for municipalities in Idaho. We examined some Idaho municipal NPDES permits to determine EPA’s approach to setting sensitive methods.

Coeur d’Alene’s NPDES permit was issued by EPA in December, 2014. To our knowledge, this is the latest major municipal facility permit issued by EPA. In the permit, EPA does not include tables upon tables of chemicals and their QLs. EPA simply includes a statement that the most sensitive method must be used for pollutants that have effluent limits. The QLs that are identified in the permit are limited to those pollutants that are of specific concern with the discharge.

6. Minimum Levels. For all effluent monitoring, the permittee must use methods that can achieve a minimum level (ML) less than the effluent limitation. If the effluent limit is less than the minimum level of the most sensitive EPA-approved analytical method, the permittee must use the most sensitive EPA-approved analytical method. For parameters that do not have concentration effluent limitations, the permittee must use methods that can achieve MLs less than or equal to those specified in Table 2. If no minimum level is listed in Table 2 and the pollutant is not subject to an effluent limit, the permittee may use any EPA-approved method for analysis. The permittee may request different MLs. The request must be in writing and must be approved by EPA. For monitoring of PCB congeners and 2,3,7,8 TCDD, the permittee must comply with parts I.B.11 and I.B.12 of this permit.

Table 2: Maximum MLs for Pollutants Not Subject to Concentration Effluent Limitations		
Parameter	Units	Maximum ML
<i>Cadmium</i>	<i>µg/L</i>	<i>1</i>
<i>Nitrate + Nitrite as N</i>	<i>µg/L</i>	<i>50</i>
<i>Silver</i>	<i>µg/L</i>	<i>0.3</i>
<i>Total Ammonia as N</i>	<i>µg/L</i>	<i>50</i>
<i>Total Kjeldahl Nitrogen</i>	<i>µg/L</i>	<i>100</i>
<i>Total Phosphorus</i>	<i>µg/L</i>	<i>10</i>
<i>PCB Congeners</i>	<i>pg/L</i>	<i>See I.B.11.</i>
<i>2,3,7,8 tetrachlorodibenzo-p-dioxin (TCDD)</i>	<i>pg/L</i>	<i>See I.B.12.</i>
<i>Mercury (expanded effluent testing)</i>	<i>µg/L</i>	<i>0.01</i>

EPA’s language regarding the reporting of levels is also different than what DEQ is requiring in NPDES permits in Oregon. EPA requires reporting below the QL only in certain circumstances.

7. For purposes of reporting on the DMR for a single sample, if a value is less than the method detection limit (MDL), the permittee must report “less than {numeric value of the MDL}.” If a value is less than the ML, the permittee must report “less than {numeric value of the ML},” except for PCB congeners and 2,3,7,8 TCDD. For PCB congeners and 2,3,7,8 TCDD, if a value is greater than the MDL, the permittee must report the actual value, even if it is less than the ML.

Summary

ACWA recommends that Oregon DEQ replicate EPA’s approach by removing the QLs for every pollutant in the Clean Water Services permit. The Department’s associated municipal permit template should also be revised. All requirements to report below the QL should be removed from the permit. Reporting of estimated values is not appropriate for Clean Water Act related permitting. This approach would be consistent with the sufficiently sensitive method rule and EPA’s approach to implement the rule requirements.

Please let us know if a meeting with our municipal water quality laboratory experts would be useful to further discuss this issue.

Very Truly Yours,



Janet A. Gillaspie
Executive Director

cc: ACWA Laboratory Managers

ACWA Board

Sonja Biorn-Hansen/Ron Doughten/Jennifer Wigal, DEQ – Water Quality Program

Brian Boling/Scott Hoatson, DEQ – Laboratory

Tiffany Yelton-Bram, DEQ – Northwest Region

Ranei Nomura, DEQ – Western Region

Don Butcher, DEQ – Eastern Region