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Murkier waters to flow with new rules

Rivers The DEQ says effects will not be noticeable, while critics decry the use of industry money to pay costs

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The state's environmental agency is moving to let factories and plants pour dirtier water into Oregon rivers, in a change partly paid for by one of the industries that would benefit from the looser rules.

The move is necessary because rules protecting water clarity are so strict that industries have a hard time meeting them and the state enforces them only sporadically, state officials said.

Revisions proposed by the Oregon Department of Environmental Quality would let the average Oregon river become more than 30 percent murkier at times. The average smaller stream could become more than twice as murky.

Wastewater draining from a St. Helens paper mill and city sewage plant into the Columbia River, for example, could be nearly four times cloudier than under present rules, according to state calculations.

DEQ leaders said Oregon rivers are so clear to begin with and the changes so minor that the effect would be scarcely noticeable in streams and would not bother salmon that require clear water. They emphasized that the new rules would still be tougher than those in most other states.

But environmental groups said the budget-strapped DEQ is bowing to the very industries it is supposed to oversee.

"Their argument is, 'We don't enforce the standard, so we're going to make one that's

weak so it's easier to enforce,' " said Brent Foster of Columbia Riverkeeper. "It just shows the complete lack of backbone in DEQ."

This is the first time the state environmental agency has tried to alter water standards under a provision approved by the Legislature that allows industries to pay for work that the DEQ cannot afford on its own.

The changes are now open to public comment and must be approved by the state Environmental Quality Commission and the U.S. Environmental Protection Agency.

The change does not weaken the rules but creates scientifically sound limits that can be applied more consistently, said DEQ Director Stephanie Hallock.

"I look at it as an attempt to make a workable standard," she said.

The latest research suggests that current rules are more rigid than necessary to protect salmon, drinking water and other uses dependent on clean water, DEQ officials said. Fish adjust to natural changes in rivers, and the new rules keep cloudiness to levels fish can handle, they said.

The rules involve only the cloudiness of water -- called turbidity --while other rules control chemicals. Cloudiness limits whether fish can see to feed and whether sunlight reaches underwater plant life. Murkier water also often means cities bear higher costs for filtering drinking water.

The rules affect construction activities that stir up silt and industrial plants that pipe murky water into rivers. However, the state exempts some construction from the limits because they are so difficult to meet.

"If we were to follow it, it would restrict most activities to not being allowed," said Tom Rosetta of the DEQ.

Industry limits loosened

The new rules could be applied to some of the construction that is now exempted, leaving rivers cleaner, he said.

But the changes could simultaneously loosen limits on industrial plants, such as pulp and paper mills along the Willamette and Columbia rivers that have had to clean up their wastewater in recent years.

Mark Morford, a Portland attorney who represents paper mills, said the current rules are outdated and lack specifics, and "DEQ started making it up as they went along." Plants found themselves facing uncertain standards and unpredictable costs, he said.

The proposed revisions make the rules more precise and consistent and are based on science showing that small changes in clarity have little effect on fish, he said.

But environmental groups counter that the revisions would suddenly relax the rules and handicap their efforts to keep rivers clean. They said wastewater draining from many plants far exceeds what fish can tolerate.

The Northwest Environmental Defense Center forced the cleanup of brown industrial wastewater piped into the Columbia Slough under the current rules, said Executive Director Mark Riskedahl. But the new rules would make that impossible, he said.

"They keep taking the tools away," he said. "There is no evidence they would enforce even a weaker standard."

Private funding

State officials concluded years ago that the current rules, enacted in the 1970s, needed updating. But with their budget stretched, "it never rose to the level that we could address," said Bob Baumgartner of the DEQ's water quality division.

The Northwest Pulp and Paper Association, an alliance of paper mills, changed that in 2002 when it committed \$120,000 for DEQ to undertake the revisions. The private money was supposed to cover the cost of staff time for analysis, public comments and other procedures, documents say.

The arrangement is allowed under a 1997 state law that lets private parties pay the DEQ to "expedite or enhance a regulatory process."

The work took longer than planned and the Pulp and Paper Association paid only \$102,705. DEQ spent roughly \$260,000 in state money to finish the job, Baumgartner said.

The association's commitment of money did not earn it any unusual influence, and the DEQ is seeking to impose tighter limits than the industry wanted, he said.

"Of course they were (involved) but so were lots and lots of other people," Baumgartner said. "They were not unduly so."

In part because of shrinking state funding, the DEQ depends on outside money for about two-thirds of its budget. Much of the funding comes from fees companies pay for air and water pollution permits, for instance.

But officials acknowledged that an industry group paying the state agency that regulates it to adjust pollution limits could raise public questions. Hallock said she stands behind the

DEQ's technical work and thinks the revision is fair and sound.

She said outside money is an important tool to perform environmental work chronically underfunded in Oregon. "But if the perception raised is that it's not acceptable to the public, we're going to have to look at that," she said.

DEQ policies say outside money should not be used "where it would result in an apparent or actual conflict of interest."

Contract agreements

The contract between the DEQ and the Pulp and Paper Association that spelled out the funding deal said agency staff "shall be free to exercise independent judgment, as approved by DEQ management."

But it also said the DEQ would review two reports supplied by the Pulp and Paper Association "as a starting point for this work," though they would be subject to independent evaluation. One was a 2002 report by the Pulp and Paper Association arguing that Oregon standards are based on obsolete methods and unnecessarily strict.

The other came from the National Council for Air and Stream Improvement, a research institute funded by the paper and timber industries. It suggested Oregon's tight limits would make little difference to salmon.

The 13-month agreement required DEQ to report monthly to the Pulp and Paper Association on its work and expenses and submit invoices to the industry group for payment.

Environmental groups protested at the time. They said this week they are not surprised at the result.

"Northwest Pulp and Paper was not going to roll the dice with their money if there was a possibility the rule was going to get tougher," Foster said.

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