

**Oregon Toxics Standards Review Project  
Broad Stakeholder Group Meeting  
USEPA Oregon Operations Office  
December 17, 2009**

**In attendance:**

Deanna Conners – DHS  
Kim Johnson – EPA  
Kris Carre – EPA  
Janet Gillespie – ACWA  
Charles Logue – CWS, ACWA  
Mark Landover – Special Districts Assn. of OR  
Michael Campbell – Stoel Rives  
Kathryn VanNatta – NWPPA  
Neil Mullane – DEQ  
Debra Sturdevant – DEQ  
Greg Geist – DEQ  
Kevin Masterson – DEQ  
Cheryl Grabham – DEQ  
Annette Liebe – DEQ  
Mike Wiltsey – DEQ  
Stephanie Brandon – DEQ  
Donna Silverberg – DSC  
Mary Lou Soscia – EPA  
Dave Kliewer – City of Portland (ACWA)

**On the phone:**

Jim Hill – City of Medford  
Travis Williams – Willamette Riverkeeper  
Teresa Huntsinger – OEC  
Lauren Goldberg – Columbia Riverkeeper  
Ralph Saperstein – OR Water Quality Coalition  
Nina Bell – NWEA  
Rich Garber – NWPPA  
Jannine Jennings – EPA  
Melinda McCoy - EPA  
Brad Meltzer - ODF  
Dave Wilkinson – ODA  
Kathleen Feehan - CTUIR

Neil Mullane welcomed the group and thanked everyone for their willingness to work on this important project together. After a round of introductions, Jannine Jennings also welcomed the group. She stated that this is the most significant piece of work in EPA's water quality standards program and that she is pleased to be working again with DEQ and CTUIR. She pledged that EPA will be active and engaged in this project and has a team on board to help make it successful and smooth. Neil said that the end result of this project will be a three-government adoption of new standards rules and implementation of those rules. He emphasized that in this rulemaking the group will have to try new things that haven't been done before and he encouraged people to think in new and innovative ways. He noted that he sees this as an exciting process that will push new ideas for DEQ and other agencies working towards toxics reductions.

Jennifer Wigal described the background of the project and the roles of the two groups. The smaller group will focus more on the rulemaking. The broad group (larger group) will focus on comprehensive toxics reduction. Jennifer presented a historical review of what brought the group together today, starting with the 2004 revised standards based on a fish consumption rate (FCR) of 17.5 g/day. The Tribes and EPA expressed concern in 2004 about the standards, so DEQ agreed to revisit them in the future. In 2006, DEQ, EPA, and the Tribes started the project to revise the FCR and convened two groups, the Human Health Focus Group and the Fiscal Impact and Implementation Advisory Committee. On October 23, 2008 the EQC directed DEQ to (from EQC Directive handout):

1. Revise Oregon's toxics criteria for human health based on a fish consumption rate of 175 grams per person per day;

2. Propose rule language that will allow DEQ to implement the standards in National Pollutant Discharge Elimination System (NPDES) permits and other Clean Water Act programs in an environmentally meaningful and cost-effective manner;
3. Propose rule language or develop other implementation strategies to reduce the adverse impacts of toxic substances in Oregon's waters that are the result of non-point source (not via a pipe) discharges or other sources not subject to section 402 of the Clean Water Act;
4. Develop a proposed rule and implementation methods that carefully consider the costs and benefits of the fish consumption rate and the data and scientific analysis already compiled or that is developed as part of the rulemaking proceeding.

The goal of this project is to revise WQ standards in a cost effective and environmentally responsible way.

Kathryn VanNatta asked if the EQC Directive handout had been compared with the recorded tape of the EQC meeting. Greg Geist said that he talked with Larry Knudsen and Larry said that we could make minor edits to the grammar in preparing our handout, because the EQC tape was not grammatically correct.

Charlie Logue asked how this group will work with non-water entities like air and land, as well as groups that are not represented on the broad stakeholder group. Kathryn asked how the work of this group fit in with the work of FIIAC and NPDES permitting. Jennifer said that this project really consists of two parallel projects:

1. Development of revised standards rules based on the FCR and implementation of these rules (primary charge of small group)
2. Development of a strategic and comprehensive method for reducing toxic discharges from all sources (primary charge of large group)

Jennifer said that this is a water-focused group, but the members of this group have connections to other non-water groups that can provide information on comprehensive toxics reduction. Jennifer discussed the goals of the two projects (handout).

**ACTION:** The group requested a written version of DEQ's stated goals.

### **Scope of the Human Health Criteria Review:**

Deb Sturdevant presented a review of the human health criteria (handout slides). She noted that for some chemicals background levels are higher than the criteria. We may develop site specific levels just for Oregon. Charlie wanted to know if dissolved vs. total will be discussed. Jennifer said that it will because this was adopted in 2004. Charlie asked how this project relates to the work of SB 737, especially the issues with metals and background. Kathryn asked about the list of substances on the 3<sup>rd</sup> slide. She wanted to know if this was just a starting point and can other substances be added. Jennifer said that arsenic, iron, and manganese are the easiest to work with as far as workload is concerned, but the list is not exclusive. Kathryn wanted to know if DEQ will do any other work to investigate background in Oregon. Neil said no. Kathryn said that PCBs were discussed extensively in the Human Health Focus Group. She asked how high background and legacy contaminants will be addressed in this project. Deb said that this issue will be addressed in the implementation phase on how to apply the new standards.

Greg Geist discussed implementation (handout slides). Charlie said that he did not see connections to other non-NPDES sources and he would like to see this.

Kevin Masterson discussed statewide toxics reduction strategies using the Scope and Outcomes handout. Charlie asked what the schedule is for toxics reduction strategy. Neil said that we will coordinate this with the priorities across various programs. Kevin said that we will move forward with implementation strategies and make changes as we go. Kathryn asked, from a legal compliance and WQ standards perspective, what are EPA's and the Tribes' priorities? Jannine said that for water quality standards, EPA's primary interest is WQ criteria. They need to know how implementation will work and how this will tie into overall toxics reduction. She said that EPA wants to be certain any changes will actually make a difference and to do this it will take a multimedia approach.

Kathryn said that she is concerned about the project getting too large and not staying focused on the legal liability aspects of the CWA. Jannine said that we need to stay on schedule, but it will be a challenge to do that. Mary Lou said that we will need to use new ways of thinking of how to make the CWA function and that people in DC recognize this. Travis Williams concurred with Mary Lou. Kathleen said that the Tribes' priorities were to work with permitted entities to recalculate WQ standards and do so in a way that can be implemented by people who use the NPDES process. Nina Bell said it seems like implementation issues regarding point sources complying with the new criteria will be addressed during the rulemaking. She is concerned that nonpoint source issues will be postponed. Teresa Huntsinger said that it seems like the implementation focuses on NPDES sources, but the EQC directive specifically mentions nonpoint sources. She wanted to know how nonpoint sources fit into this process.

Jennifer said that the initial idea was to get the proposed rules to EQC within one year. Realistically, the timeframe might be 16-18 months.

The roles of the small and large groups were discussed. See handout with group charges.

Deanna asked Deb to comment on the beneficial use slides that she didn't have time to present. Deb discussed how the beneficial uses are used to established WQ standards. The most sensitive uses are identified and the criteria are designed to protect those uses.

Neil said that in the future, the small group will meet in the morning and the large group will meet afterwards in the afternoon so there can be an up to date reporting on progress at the smaller rulemaking group (on days when both groups meet).

Greg discussed the Excel spreadsheet that lists the Human Health Criteria Rulemaking Workgroup Topics – 12/17/08 Draft.

Donna went over the goals of the groups which are as follows:

- Revise water quality criteria that will protect Oregon fish consumers.
- Develop a Toxics Reduction Strategy that includes as a major component, strategies to reduce toxic pollutants in Oregon waters, particularly those pollutants that have water quality criteria.
- Provide legal CWA permitting mechanisms that allow regulated facilities to reduce toxic pollutants from other sources where that reduction is environmentally beneficial and more cost-effective than meeting a numeric water quality based effluent limit.
- Identify paths to toxics reduction by sources not regulated under CWA Section 402.

Kathryn said that “science” is not mentioned in the goals. She said that science was mentioned by the EQC as much as toxics reduction was.

Jennifer said that the omission of “science” was not intentional. She said that the groups will articulate their own goals once the process is underway and DEQ will clarify the intention to include as a key part of the overall goal of the effort.

Michael supported Kathryn’s comments regarding the need for the group to give priority to NPDES permittee compliance provisions because of the short time within which the group must complete its work and because NPDES permittees will be the sources that will be immediately affected by the proposed water quality criteria changes. Rich Garber also supported Kathryn’s comments. He said that the focus needs to stay on things that will work with point sources.

Kathleen said she apologized for missing most of the meeting due to weather constraints and welcomed feedback on anything that the Tribes missed and what they can/need to do to move forward.

Jennifer asked the group to please provide feedback on any topics they think need to be addressed via a meeting evaluation handout.

Broad group adjourned.

Small group stayed behind to schedule the next meeting. It is: Wednesday, January 14, 12:30-5:00 at DEQ. DEQ will use Doodle to schedule meetings in advance. The small group meeting originally scheduled for this afternoon was cancelled due to inclement weather.

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