

# **Oregon's Water Quality Standards Review Project Toxics Stakeholder Group**

**April 24, 2009 Meeting**

## **DRAFT Facilitator's Summary**

The following notes are a summary of issues that are intended to point out future actions or issues that may need further discussion at upcoming meetings.

### **Present for all or part of the meeting:**

Marganne Allen (on phone, ODF), Nina Bell (NW Environmental Associates), Michael Campbell (Industrial Dischargers), Deanna Conners (DHS), Kathleen Feehan (CTUIR), Rich Garber (on phone, Association of Oregon Industries), Cheryl Grabham (DEQ), Ellen Hammond (on phone, ODA), Brenda Hoppe (DHS), Jannine Jennings (on phone, EPA), Mike Karnosh (Confederated Tribes of Grand Ronde), Dave Kliewer (ACWA), Charles Logue (ACWA), Kevin Masterson (DEQ), Neil Mullane (DEQ), Mark Riskedahl (on phone, NEDC), Peter Ruffier (League of Oregon Cities), Mary Lou Soscia (EPA), Deb Sturdevant (DEQ), Ryan Sudbury (CTUIR), Kathryn Van Natta (Northwest Pulp and Paper), Jennifer Wigal (DEQ), Wendy Wiles (DEQ), Dave Wilkenson (on phone, ODA).

Also Present: Donna Silverberg and Erin Halton, DS Consulting Facilitation Team.

### **Welcome and Introductions**

Donna welcomed everyone to the meeting and a round of introductions was conducted. Neil Mullane, DEQ's Water Quality Administrator, said that during the course of discussions with the EQC, it had become apparent that their directive was to look not only at the NPDES permitting, but also at the state's ability to control toxics on a much broader scale. The EQC directed the agency to look across programs inside DEQ as well as to better utilize links between DEQ and other agencies to reduce toxics from multiple sources not just those permitted under the Clean Water Act. Wendy Wiles, DEQ's Land Quality Administrator, said that even prior to the EQC directive, the department had chosen to take a holistic approach toward toxics. While a budget package from the Land division did not move forward, the agency determined the work is important. As a result, they have begun strategizing how to address the toxics that are the most harmful to people and the environment on an agency-wide level. She noted that managers and staff from the divisions of water, air and land will partner with the Toxics Reduction Strategy effort and this stakeholder group as work progresses. Kevin Masterson is the key staff person leading the effort.

Silverberg referred the group to a document that described the purposes of the rulemaking group, the toxics stakeholder group and pollutant category subgroups. She noted that all groups will help with the effort to make appropriate linkages between the water quality standards rules and the broader toxics reduction efforts.

- Question: Does DEQ expect to be notified of the budget resources that will be available to support implementation before June 30? Answer: no, we will likely not know our budget status before that date.

### **Update on Toxics Reduction Strategy Project**

Kevin Masterson, DEQ, said that one of the goals of the overall effort is to increase efficiencies throughout the state; he added that the state health department representatives who are part of the stakeholder group will be good partners for leveraging resources when the process moves toward implementation. Masterson said that any short and long term actions and strategies put forward will need to follow a methodology and be both rational and defensible. He reviewed a six step “draft concept” document that had been revised for this meeting. The latest update included additions of sources of water quality information, new language under “criteria for ranking” and a new “task 6: implementation strategy and measures.”

Masterson said that emerging toxins and contaminants have been a challenge to rank, as there is little data on them and he reviewed the criteria used for the ranking process. He also noted that every strategy developed will have a measure of effectiveness component, to make sure environmental outcomes and trends for pollutants of concern are measured. Kevin clarified that public input on how the effort moves forward may be provided and solicited through this stakeholder group. He asked the group for feedback on the “11/7/08 draft DEQ Toxics Reduction and Assessment Programs” list and the overall strategy “draft concept” documents:

- Question: is there a way to incorporate best management practices in this model?:  
Answer: yes – under number 3 (Inventory of Current Strategies) on the flowchart document; also, to clarify, what is working well now to address toxics is expected to continue.
- Comment: suggest adding bullet 3 under Step 1 on the flow chart (DEQ will identify potential ‘quick responses’) to Task 1 on the concept document, to true up the two documents. **Action:** Masterson will make the addition.
- Question: regarding investigating the origination/source of pollutants under Task 2, with regards to storm water, which and where do you plan to investigate?  
Answer: our goal will be to go as far up the line as we can. This might mean air first, then following the line to examine the deposition effects on soil and erosion as areas are developed from rural to urban.
- Comment/Question: the Pulp and Paper Industry feels that the July 30 – October 30 timeline is an unrealistic timeline for source identification work; it is arbitrary and capricious to say three months is enough time to investigate all sources and pathways – do you plan to meet more than monthly? Response: acknowledge that the timeline is ambitious, and the hope is that the concurrence of subgroup efforts will help move the process along as much as possible. DEQ shares the concern around time – and yes, the sub-group likely will meet more than once a month. We will be drawing from existing data and support from outside DEQ for many pollutants and sources on the list. There is a national EPA data source on emerging pollutants - especially consumer products – which we can draw from and the group will build on strategies that work well for multiple pollutants. DEQ is working with nine other states to develop a “chemical clearing house” to share information, strategies and methodologies and the group welcomes suggestions regarding strategies from other groups/agencies.

- Comment: under task 4 bullet 2, ACWA is interested in tangible changes and achieving real toxics reduction in the most cost effective way possible; if we identify opportunities, is there legal authority for cross-media rule making? Answer yes.
- Comment: suggest giving pre-treatment programs its own row on the list of programs. **Action:** Masterson will make this change.

**Next Steps:** The “May 30 Draft” document is on track to be distributed to all group members by the end of May and will be discussed at the next stakeholder meeting, likely scheduled for a date in mid to late June. Masterson also clarified that the list of pollutants will be finalized by June 1.

### **Senate Bill 737**

Cheryl Grabham, DEQ, referred the group to a handout/update on work stemming from the 2007 Senate Bill 737 that reviews the requirements, purpose and clarification of the P3 list and specifics regarding the timeline and project milestones from 6/1/09 through 7/1/11. Grabham noted that the agency had received a large volume of public comments on the draft P3 list and included a summary of the overall messages heard: mainly, people are very concerned about the water they drink and the fish they eat and are very interested in the toxics reduction efforts underway. Jennifer Wigal, DEQ, noted that while there were no comments on the criteria for prioritizing, there were public questions regarding the models being used for prioritization.

Grabham reported that the Persistent Pollutant Science Workgroup planned to meet on April 29 to review the public comments and refine the P3 list based on the updated prioritization models. Grabham said that a peer review panel will be convened and will begin the ‘trigger level’ rulemaking process in the fall of 2009. The panel will use input from stakeholders to help develop the method of calculating trigger levels for pollution reduction plan; Wigal clarified that DEQ will share its intended approach to setting trigger levels at the next stakeholder meeting, likely in mid to late June.

**Announcement:** Mary Lou Soscia, EPA, reminded the group that a workshop will be held at CTUIR in Pendleton on May 13; she noted that the workshop will bring together representatives from a broad range of organizations and agencies, including agriculture. The event will help identify opportunities for partnering and sharing what can be done to help reduce toxics on a broad and personal level. Kathleen Feehan, CTUIR, said that the CTUIR Board is delighted to host the event and invited all who planned to attend to a special longhouse dinner the previous night (May 12) on the Reservation.

### **Water Quality Standards Rulemaking Effort Update**

Jennifer Wigal, DEQ, provided a briefing handout on the rulemaking efforts; it included updates on the status for human health water quality criteria, arsenic review criteria, background pollutants and tasks/action items that lie ahead. Wigal said DEQ is looking for a “good and reasonable” approach to the naturally occurring arsenic issue. Deb Sturdevant, DEQ, reported that the rulemaking group considered a few options for an approach to setting criteria and also the “calculated” criteria level of 2.7 in their discussion on 4/22, which could be used for organism-only and water + organism. The rulemaking group supported the 2.7 value for an organism only criterion, but is

considering the merits of a calculation approach that results in 2.3 for the water + organism value. DEQ said they will cross-check any proposed criteria's effects on human health and criteria implementation provisions and plan to integrate all interests as best it can.

Regarding background pollutants, Sturdevant said the rulemaking group discussed how criteria might be shaped for situations in which point sources increase concentration but do not add mass. DEQ is looking at how to characterize the issue and describe what can be done through the standards rules, as intake credits may be applied only where there is no increase to both mass and concentration. The goal for the next rulemaking group meeting will be to close in on consensus for language that describes how such a provision may be written.

- Question: is there a definition for “significant vs. insignificant health risk”? Answer: not yet – although there have been some examples put forth by Mike Campbell; DEQ acknowledged this is a key issue for the permitting process.
- Comment: how to deal with the “un-quantifiable” is a key issue.
- Comment: suggest focus will need to be on complex “concentration/evaporation” issue; also, focus on source and receiving water variances and look for opportunities to make applications pre-treatment.
- Question: is drinking water “raw data” available somewhere? Answer: yes – Sturdevant is getting that information from our source water protection program staff.

### **Looking Ahead / Next Steps**

As the meeting drew to a close, the following toxics reduction-related announcements were mentioned:

- DEQ will follow up with stakeholders that were unable to attend today's meeting, to make sure the briefing documents and summaries clearly communicated the status of the project.
- DEQ will post the dates for future meetings on their web page.
- DEQ and EPA will look to convene a workshop devoted to PCBs in July – invitees will include people that have worked on the Portland Harbor project and the workshop will assess what's known for OR, identify actions and areas of focus.
- EPA is developing a toxics reduction “Personal Action Fact Sheet”.
- The National Fish Contaminant Forum will be held in Portland on November 2-4<sup>th</sup> 2009 – Deanna Conners, DHS, is on the Steering Committee for the forum and is hoping to showcase this OR effort.
- The American Dental Association performs annual mercury collection events.
- The Department of Forestry is hoping to release a report in July on industry indicators for water quality.
  - The Oregon Department of Transportation is reporting a list of hazardous minerals / risk identification to the Board of Forestry.

**Next Stakeholder group meeting:** The next meeting will be from 8:30 am – 12:30 pm on June 17th