

Revising Oregon's Industrial Stormwater General Permits Advisory Committee Meeting Notes

Meeting: Meeting 1- Introduction and Overview of Project

Date: June 23, 2009

Location: DEQ-Headquarters, Portland

Attendees: Committee:

- Mark Riskedahl-Northwest Environmental Defense Center
- Michael Campbell-Stoel Rives LLP on behalf of Oregon Industrial Stormwater Group
- Calvin Noling-StormwaterRx
- Eric Strecker-GeoSyntec Consultants
- Neil Alongi-Maul Foster & Alongi, Inc.
- Doug Pennington-Oregon Metals Industry Council
- Russell Strader-Boise Cascade LLC
- Jay Waldron-Glenwood Auto Parts
- Rick Fischl-Clean Water Services on behalf of OR Association of Clean Water Agencies
- Michael Pronold-City of Portland, Bureau of Environmental Services
- Dorothy Sperry- Port of Portland

DEQ: Neil Mullane, Annette Liebe, Jenine Camilleri, Paula Calvert, Rodney Weick

Chair: Commissioner Ken Williamson

Introduction- DEQ Water Quality Administrator Neil Mullane provided opening remarks.

Background and Project Goals

Annette Liebe explained the reasons why DEQ entered into the settlement agreement and agreed to revise the permits:

- DEQ did not have a good technical basis for developing the benchmarks in the current permits because DEQ cannot locate the underlying documentation developed in the mid 1990's.
- EPA permit has sound record for benchmarks.
- EPA Multi-Sector Permit issued in September 2008 addresses many of the issues that were raised in the litigation.

The settlement agreement has not been signed by the parties and will be sent to the committee upon final signature.

Annette set out the goals for the project:

- New permits will protect water quality for the state.
- New permits will be legally defensible.

Annette highlighted the key issues that the committee will be discussing:

- Discharges to impaired waterbodies
- Consequences for facilities that cannot meet benchmarks

- Monitoring requirements, including monitoring waiver, substantially similar outfalls and proper characterization of stormwater discharges

Role of Committee

Commissioner Ken Williamson explained the ground rules for the committee, including that the role of the committee is to provide input to DEQ and not to reach consensus.

Committee comments:

- Consensus would yield a better discussion and improve the dynamics of the group. Commissioner Williamson explained that the closer the group can get to consensus the better the result will be.
- A request was made to track the issues/recommendations where the committee reached consensus.
- A question was asked about how DEQ will document progress. DEQ will draft a final report at the end of the project that summarizes the issues that were discussed and the recommendations by the committee. Before each meeting, DEQ will provide a report with a series of options and recommendations for the committee to review. After each meeting, DEQ will prepare meeting summaries that highlight key discussions, comments, decisions, and follow-up items.
- Committee members can provide comments to DEQ throughout the project in writing or by telephone. DEQ staff will summarize these comments and share them with the committee.
- A suggestion was made to queue up issues at the end of each meeting that will be discussed at the next meeting.
- Emails headings regarding the Industrial Stormwater advisory committee will start with the acronym ISAC.

Presentation: Comparison between EPA’s Multi-Sector General Permit and DEQ’s Industrial Stormwater Permits

Jenine Camilleri presented a comparison of the EPA and DEQ industrial stormwater general permits that highlighted requirements such as narrative, technology based and water quality based effluent limits; benchmarks, and monitoring and reporting requirements.

Committee comments:

- During the discussion on the Water Quality standards requirements, a question was asked about developing a “compliance assessment design storm or compliance level”. DEQ responded that consequences for exceeding the design storm would need to be evaluated, including identify factors for determining compliance.
- During the discussion on Monitoring requirements, a comment was raised regarding whether the EPA monitoring requirements are appropriate for the Pacific Northwest (e.g., first flush monitoring and length of time between storm events).
- During the discussion on Benchmarks, the following comments were raised:
 - A question was asked regarding what translator values were used in developing the EPA’s benchmarks for metals (i.e., dissolved vs. total recoverable).
 - Comments were raised that EPA’s benchmarks may not be technically sound because they are simply based on the water quality criteria.
 - A question was asked about EPA’s water quality standards and whether these are national standards or are they different from Oregon’s standards.

DEQ responded to these questions/comments by explaining that at the next meeting DEQ will go into great detail on how EPA's benchmarks were developed and answer the questions that were raised at this meeting.

- Questions were asked regarding what is the role of the EPA permit in guiding the development of Oregon's new permits.
 - A question was asked about the role EPA plays in approving DEQ's permits and whether DEQ's permits need to be similar and as stringent as EPA's permit. DEQ explained that if Oregon's permit deviates from the national permit that there will have to be sufficient evidence in the record to justify the change in approach. Comments were raised that DEQ's permit can be different from EPA's permit and EPA's permit does not have to be the floor, but can serve as a starting point for discussions. As a follow-up item, DEQ will have the Department of Justice draft a memo on this issue.
 - A comment was raised that Oregon's permits should be legally defensible and effective given the difficulty facilities may have achieving the benchmarks for metals.
 - A question was asked about whether EPA's permit has been challenged. As a follow-up item, DEQ will research this question.

Overview of Work Plan

Jenine Camilleri provided an overview of the project work plan that outlines the scope of the project and the topics that will be discussed at the monthly meetings.

Committee comments:

- A suggestion was made to consider the water quality compliance issue earlier in the process as it relates to the benchmarks and monitoring requirements. Given that the benchmarks in EPA's permits are based on water quality criteria, a question was asked regarding what is the purpose of a benchmark exceedance. DEQ responded that it will evaluate changing the work plan and having a broader of discussion regarding the purpose of monitoring results and how it relates to complying with water quality standards.
- A question was asked regarding the scope of plan review and whether DEQ would follow EPA's approach and not review the plans before issuing permit coverage. DEQ responded that it has committed to continue to implement the public participation requirements. DEQ will also evaluate efforts to streamline plan review.
- A comment was raised regarding whether DEQ can reduce emphasis on plan review since the permit has technology based effluent limits that describe the required control measures. A concern was raised that it is redundant to have plan requirements and the technology based effluent limits and benchmarks. DEQ will research the relationship between technology based effluent limits and plan requirements in EPA's permit for the next meeting.

Follow up Items

- Send out final settlement agreement
- Send out copy of existing DEQ permits
- Send out list of DEQ staff working on the project
- Research relationship between technology based effluent limits and plan requirements in EPA's permit
- Move fundamental issues up earlier in the process (i.e., compliance with water quality standards and purpose of monitoring)
- Have Department of Justice draft a memo on the role of EPA's permit (i.e., is it the floor?).
- Determine if EPA's permit is currently being challenged.

Future Meetings:

- August 4, 2009, 1 to 4 p.m., DEQ Headquarters, Portland, Room EQC-A
- September 15, 2009, 1 to 4 p.m., DEQ Headquarters, Portland, Room EQC-A
- October 20, 2009, 1 to 4 p.m., DEQ Headquarters, Portland, Room EQC-A