



March 21, 2011

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Ms. Andrea Matzke
Oregon Department of Environmental Quality
Water Quality Division
811 S.W. Sixth Avenue
Portland, Oregon 97204

RE: Comments on Proposed Revised Water Quality Standards for Human Health Toxic
Pollutants and Revised Water Quality Standards Implementation Policies

Dear Ms. Matzke:

Thank you for the opportunity to provide comments. The Oregon Forest Industries Council (OFIC) represents member companies who own and manage nearly 5,000,000 acres of private forestland in Oregon and operate many of the manufacturing facilities associated with Oregon's forests. OFIC members and the rest of the forest sector provide jobs for over 50,000 Oregonians—most of those jobs offer above average wages and some level of health care and other benefits. In addition, those jobs are located largely in depressed areas of rural Oregon. OFIC feels strongly that any job loss associated with the implementation of these new standards is unacceptable.

OFIC would like to support comments made by the NW Pulp and Paper Association (NWPPA). NWPPA has worked long and hard in this process to bring science, reason, and possible solutions to the DEQ. DEQ would be wise to listen to and incorporate their comments as integral parts of their rulemaking package. There is a great deal of overlap in membership between OFIC and NWPPA. OFIC has historically focused on timberland issues and will do so for the rest of our comments, but would like to first acknowledge that NPDES permit holders are uniquely vulnerable if DEQ does not adopt some or all of the proposed package.

For the record, OFIC would like to request that DEQ withdraw these proposed new standards. OFIC believes that the numeric criteria derived from the underlying assumptions in this entire effort will be well below any other State's and provide little or no discernible environmental benefit. What is certain is that costly new treatment technologies will have to be implemented to reduce already low levels of many of these substances. For nonpoint sources, the "solution" to this is not clear because there has been no coherent explanation of what the "problem" is.

If DEQ chooses not to accept our basic request, OFIC would then suggest that DEQ reevaluate several points inherent in their proposal and make the appropriate changes to the proposal. Most central to that is the relationship between the fish consumption rate and the use of an

ultra-conservative risk factor. The fish consumption rate should have always been considered as one part of the equation used to set numeric criteria. OFIC and others urged DEQ to lower the risk factor once they had adopted a very high consumption rate but DEQ refused to consider that, mostly it appears, for political reasons.

OFIC predicted a strong backlash against DEQ if it chose to be ultra-conservative at every turn, and indeed, DEQ experienced that frustration in a legislative hearing on the matter. The reaction from legislators was predictable: why are we endangering jobs with expensive environmental protections that are at best marginally useful?

OFIC does not want to be insensitive to the needs of high fish consumers. Indeed, we have not objected to the consumption rate *itself*, but rather the use of ultra-conservative assumptions for all variables that produce the numeric criteria. It is OFIC's opinion that manufacturing jobs will be lost in Oregon with the adoption of yet another restriction. And while some might consider that an acceptable trade off, OFIC does not. Consumption behavior will not change, just the location of production will change. Unfortunately, not only do we lose jobs and their associated health care benefits for all of the workers and their families, but the production shifts to places with less (if any) environmental protection. A true "lose-lose" scenario.

OFIC objects to process by which DEQ arrived at this proposal. First and foremost, OFIC strenuously objects to the way in which DEQ allowed the EPA to bully the state of Oregon into this proposal. EPA personnel, on at least two occasions, stated publicly that if DEQ doesn't propose this set of water quality standards, EPA would do so WITHOUT any of the compliance mechanisms that everyone agrees are necessary.

Making matters worse, DEQ allowed some stakeholder groups to appoint themselves to leadership roles in developing materials that directly influenced the process. The stance by those self-appointed few was essentially that the "problem" couldn't be solved by the point sources and therefore an all-out assault on nonpoint sources was necessary. While DEQ tried to distance itself from that view, it never should have allowed it to happen in the first place.

It is OFIC's opinion that DEQ facilitation of the delivery of those inflammatory views forced the entire process down the wrong path. A far more productive path would have been to admit that the problem, as currently defined, can't be solved on the backs of the point source dischargers. OFIC agrees with this. But rather than make the leap to blaming nonpoint sources, OFIC argued that the problem was (and still is) poorly defined.

This is partly why OFIC encourages DEQ to withdraw the proposal. OFIC does not believe the linkage between adoption of far more stringent water quality standards and a positive impact on human health has been well documented. If that linkage were made by documented releases of toxic substances that lead directly to problems with human health, then one could make those releases a violation of water quality standards and stop them. But in practice,

releases of these substances are already strictly controlled—any release of significance to human health is already a violation of water quality standards.

In contrast, this effort literally seems to be aimed at preventing releases of everything everywhere because some how it all accumulates and causes “the problem.” Human health issues related to toxics substances is an immensely complicated problem—the water we drink, the food we eat, literally the air we breathe are all pathways for toxic exposure. Complicating that even further are people that, due to their diet, their location, and/or their unique body chemistry, are more at risk than others. OFIC believes the strategy proposed relies upon an unproven, incredibly high cost approach that will have little discernible environmental or human health benefit.

How, given that, does DEQ implement programs that protect human health? OFIC believes DEQ has to look no further than its own programs to find the answer. OFIC has always applauded the common-sense approach of DEQ’s Toxics Reduction Strategy. Instead of regulation and litigation to beat businesses into submission, ask them instead for their cooperation to solve identified problems. Oregon has many examples of successful voluntary partnerships, i.e. The Oregon Plan for Salmon and Watersheds, that addressed identified problems. The Toxics Reduction Strategy is modeled after these programs and should be given adequate time to demonstrate success.

OFIC members have worked hard to reduce their impact on the environment and are justifiably proud of their accomplishments. Beating them down with further punitive regulation seems inappropriate. Again, OFIC encourages DEQ to reconsider these proposed standards.

A handwritten signature in black ink that reads "Chris". The signature is written in a cursive, flowing style.

Chris Jarmer
Director, Water Policy