**Toxics Workgroup Meeting**

**December 2, 2010**

**A. Summary of Rule Changes**

**1. Human Health Toxics Criteria**

* Proposing to remove human health criteria from Tables 20, 33A and 33B and have a new Table 40. Effective only after EPA approval.
* 43 additional pollutants are proposed--total of 114 pollutants
* 11 pollutants proposed to be withdrawn based on EPA recommendations
* Revised footnotes for clarification

**2. Intake Credits**

* Comments from EPA Region X, OR DOJ and Internal DEQ Staff (permit writers)
* Comments to bring department’s language more in-line with federal rule language (GLI).
* Comments to ensure that proposed rule language meets the OR Secretary of State’s publishing requirements.
* Miscellaneous comments to further clarify rule language.

**3. Background Pollutant Allowance**

* The provision applies only to criteria based on carcinogenic effects
* The 3% increase is not allowed if the increase would cause the calculated ambient concentration after the increase to exceed a 10-4 risk level value (calculated using the same method used to calculate criteria).
* The rule clarifies that the mass load in the discharge may not exceed the mass load in the intake water from the “same water body” and defines what is considered to be the “same water body” consistently with the intake credit rule.

**4. Variances**

* Removed introductory language to provision—AG recommends EQC staff reports to accomplish this context.
* Miscellaneous edits for clarification and organization—de-linked variances from pollutant reduction plans. Pollutant reduction plans still required.
* Removed reference to multiple discharger variances
* Addition of language re: naturally occurring and human caused conditions. Situations that give rise to background pollutants could be addressed by either of these conditions.

**5. Division 41 and 42 Non-NPDES Changes**

* 340-041-0007 (5): Some changes were made to 10/4 version in order to improve the wording, and also to avoid the use of the word “discharge.”
* 340-041-0061 (11): Similar changes to 0007 (5) were made to 10/4 version in order to improve the wording, and also to avoid the use of the word “discharge.
* 340-041-0061 (12): Some changes were made to 10/4 version in order to clarify that this provision is applicable to any persons (not just landowners) subject to an ODA area plan and implementing rules.
* 340-042-0080 (2): Some clarifying words were added per AG’s recommendations to describe when FPA may need to be revised due to TMDLs.

**B. Internal Management Directive Schedule**

* **IMDs to be developed for variances, TMDLs, and the background pollutant allowance**

|  |  |
| --- | --- |
| December 30, 2010 | detailed IMD outline |
| March 31, 2010 | draft IMD |
| May 10, 2010 | draft final IMD (attached to EQC rule package) |
| After EPA Approval | final IMD |

* **Antidegradation**

DEQ will draft a chapter of the antidegradation policy IMD describing how the antidegradation policy applies to and will be implemented for nonpoint sources. We propose to develop a draft document by the date the EQC adopts the toxics criteria revisions (expected June, 2011) and a final document six months after EQC adoption of the toxics rules package.

**C. Toxics Rulemaking Schedule**

|  |  |
| --- | --- |
| Dec. 1 – 8, 2010 | DEQ Executive Management Team Review |
| Dec. 9 & 10, 2010 | Informational Update to EQC |
| Jan. 3. – Feb. 18, 2011 | Public Comment Period |
| Feb. 1 – 11, 2011 | Public Hearings (7)  Bend: Feb. 1 1:00 pm Ontario: Feb. 7 3:30 pm  Eugene: Feb. 2 9:00 am Pendleton: Feb. 8 2:00 pm  Medford: Feb. 2 6:00 pm Portland: Feb. 10 6:00 pm  Coos Bay: Feb. 3 1:30 pm |
| April 29, 2011 | Response to public comment completed |
| May 10, 2011 | DEQ staff report due to EQC |
| June 16 & 17, 2011 | EQC action item for rule adoption |
| Oct., 2011 | EPA action on final rule |

**D. Metals Rulemaking**

DEQ is proposing to adopt the revised iron and manganese criteria at the December, 2010 EQC meeting. DEQ needs additional time to respond to comments on the proposed arsenic criteria revisions, but intends to move forward with those revisions after the first of the year. We expect to propose revised arsenic criteria for public comment in January or February and to recommend adoption by the EQC in spring or summer 2011.