

Corrections and Clarifications to Toxics Water Quality Standards Rulemaking

Meeting Minutes

Advisory Committee

Tuesday, June 25, 2013
1:00 – 4:00
Rm. 5B
DEQ Headquarters
811 SW Sixth Ave.
Portland, OR 97204

List of Attendees

Curtis Barton, Clackamas Water Environment Services
Dianne Barton, Columbia River Inter-Tribal Fish Commission
Heath Curtiss, Oregon Forest Industries Council
Travis Williams, Willamette Riverkeeper
Kathryn VanNatta, NW Pulp and Paper Association
Jennifer Wigal, DEQ
Andrea Matzke, DEQ
Kathleen Collins, EPA, via teleconference line

Absent:

Mike Freese, Oregon Farm Bureau
John Ledger, Associated Oregon Industries

List of Handouts

- ❖ DOCUMENT A: ADVISORY COMMITTEE CHARTER
- ❖ DOCUMENT B: PROPOSED RULE REVISIONS
- ❖ DOCUMENT C: PROPOSED TABLE 30 WITH REVISIONS SHOWN
- ❖ DOCUMENT D: PROPOSED TABLE 30 CLEAN
- ❖ DOCUMENT E: PROPOSED TABLE 40
- ❖ POWERPOINT PRESENTATION

Meeting began @ 1:10pm

Introductions/Review of Advisory Committee Charter (Jennifer Wigal, DEQ)

Slide 1

Jennifer Wigal began the meeting by noting that there will be two meetings scheduled, one today, and the other on July 11, 2013. She then introduced herself and invited the



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committee members and fellow DEQ staff person to introduce themselves. Jennifer then led a review of the Advisory Committee Charter including the purpose of the committee, background, the scope of the rulemaking, process and rulemaking schedule.

Heath Curtiss asked if DEQ delayed this rulemaking due to pressure or adverse feedback. Jennifer responded that AOI and NW Pulp and Paper Association had expressed concern at the initial Advisory Committee meeting in Jan. 2013 that EPA hadn't yet taken action on the 2004 aquatic life criteria and it was competing with other water quality standard issues and litigation. The committee members' concern focused on timing of the issue, rather than any substantive issues with what DEQ was proposing to do as part of this rulemaking.

Slide 2

Curtis Barton asked what metal was missing from the current rulemaking, and Jennifer's reply was aluminum. EPA disapproved the freshwater criteria for aluminum and there are no replacement criteria in Table 20. Therefore, DEQ proposes to remove aluminum from Table 30.

Slides 3 and 4

Jennifer Wigal stated that DEQ will be conducting another rulemaking to address EPA's disapproval of freshwater criteria for aluminum, ammonia, cadmium (acute only), and copper. She noted that EPA has developed new national criteria for ammonia, and the public release is imminent. Kathryn VanNatta questioned whether "imminent" is different than "promptly" in EPA's lexicon. Kathleen Collins confirmed that new national ammonia criteria have been finalized, but it has not yet been released.

Jennifer Wigal introduced Andrea Matzke, DEQ's Water Quality Standards Specialist, who began explaining the proposed Corrections and Clarifications to the current Toxics Rule.

Proposed Rule Revisions (Andrea Matzke, DEQ)

There was a short discussion with Andrea Matzke regarding the proposed deleted tables with Heath Curtiss and Curtis Barton.

Slide 8

Regarding the pesticide disapprovals, Curtis Barton questioned why only 11 were disapproved. Andrea Matzke responded that the footnote associated with the 11 pesticides that were disapproved describes an older EPA criteria development methodology (i.e. alternate frequency and duration expression of criteria). The other pesticide criteria that did not have the accompanying pesticide footnote were developed based on EPA's most current guidelines and are associated with a one-hour (acute) and 4 day (chronic) frequency and duration expression, and thus, approved by EPA (for more information on why EPA disapproved criteria associated with 11 pesticides, see presentation).

Slide 10

Regarding the amendments, Curtis Barton asked how they will know if it's been approved or not, and Jennifer Wigal replied that the notice will be posted on the website and Andrea Matzke added that the date will be inserted in Table 30.

Proposed New Table 30 (Andrea Matzke, DEQ)

Slide 14

There was discussion among the group regarding the footnotes and placement of definitions and clarifications. Heath Curtiss made a suggestion on the language.

There was discussion on the hardness-based metals. Andrea Matzke asked whether Table 30 should just reflect a footnote to the equation used to calculate a metal criterion based on hardness at the site, or whether to put a criterion value in the table that is associated with a hardness of 100 mg/L. Specifically, this question was focused on the cadmium acute criterion and the freshwater criteria for copper, since these criteria reverted back to Table 20 values which stated values based on a hardness of 100 mg/L. The other hardness-based metals that were approved by EPA are denoted by equations only. Heath Curtiss expressed a preference to have values in the table instead of equations because it's easier to compare any revisions that are made. Curtis Barton and Dianne Barton expressed preferences to keeping all the hardness-based metals as equations. Andrea Matzke noted that people can mistakenly use a criterion value associated with 100 mg/L as the criterion that applies across all hardness values. If only an equation is given in the table, the user is forced to calculate a criterion based on the site hardness values, thereby reducing errors in implementing the correct criterion.

Break @ 2:40pm

On selenium, Andrea Matzke explained that DEQ made an error in 2004 and did not use the conversion factors to convert a total recoverable metals expression to a dissolved expression. Kathryn VanNatta asked where the footnote was located and Andrea Matzke explained that it was in the body and not at the end of the table. There was additional discussion about the pros and cons of having footnotes located within the table, as opposed to at the end of the table.

On silver, Andrea Matzke said that an incorrect footnote would be removed.

Proposed Revisions to Table 40 (Andrea Matzke, DEQ)

Slide 15

Andrea Matzke stated that on Table 40 (Human Health Criteria), DEQ proposes to increase the font size on the footnotes, and pointed out other minor revisions.

Introduction to Fiscal Analysis (Andrea Matzke, DEQ)

Slide 16

Andrea Matzke reviewed the purpose and requirements of the fiscal and economic impact review associated with the rulemaking. She indicated that she would send the draft of

DEQ's fiscal statement to the Advisory Committee for their review early next week. Committee members were encouraged to send additional information to her about potential fiscal impacts, including benefits, based on the proposed changes in this rulemaking. The fiscal analysis will be discussed at the last Advisory Committee meeting on July 11.

Kathryn VanNatta commented that she'd like EPA to clarify what the adoption action would consist of. Andrea Matzke said she would follow up with EPA on that question. There were some technical problems with the phone line and Kathleen Collins, EPA was earlier disconnected from the meeting.

Meeting ended at 3:30pm.

Next meeting scheduled: July 11, 10 – 12, DEQ Headquarters