

**From:** MATZKE Andrea

**Sent:** Thursday, January 17, 2013 2:45 PM

**To:** ([curtisb@co.clackamas.or.us](mailto:curtisb@co.clackamas.or.us)); Dianne Barton ([bard@critfc.org](mailto:bard@critfc.org)); John Ledger - AOI ([johnledger@aoi.org](mailto:johnledger@aoi.org)); VAN NATTA Kathryn; Mike Freese ([Mike@oregonfb.org](mailto:Mike@oregonfb.org)); Travis Williams ([travis@willametteriverkeeper.org](mailto:travis@willametteriverkeeper.org)); ABRAHAM KYLE; 'adoelker@blm.gov'; 'Gritzner, Jason -FS'; 'Heath Curtiss'; 'Jim James'; 'Kay Teisl'; 'Scott Dahlman'; 'Sheila Marcoe'

**Cc:** MATZKE Andrea; FOSTER Eugene P; WIGAL Jennifer; KISHIDA Koto; STURDEVANT Debra

**Subject:** DEQ Fiscal and Economic Advisory Committees: materials for Jan. 24 meeting

**Importance:** High

Dear Participants of DEQ's Fiscal and Economic Advisory Committees,

Attached are materials for your review in preparation for next week's meeting on **Jan. 24**. For more information, see earlier email below. The NPS fiscal committee should review the first two documents, while the toxics fiscal committee should review all four documents.

**Attached Materials For Your Review**

- ❑ Proposed Rule Revisions (NPS and toxics)
- ❑ Draft Fiscal and Economic form (NPS and toxics)
- ❑ Proposed new Table 30 for aquatic life toxics criteria (toxics only)
- ❑ Proposed revisions to Table 40 for human health toxics criteria (toxics only)

The attached fiscal and economic form was excerpted from a new template DEQ is now using for rulemaking. For the fiscal and economic discussion next week, the Oregon Administrative Procedures Act requires DEQ to seek the committee's recommendations about:

- ❑ Whether the rule will have a fiscal impact
- ❑ What the extent of that impact will be
- ❑ Whether the rule will have a significant adverse impact on small businesses

Please review the draft fiscal document in context of the proposed rule changes and be prepared to provide input, such as costs, benefits, and need of rulemaking at the meeting. Feel free to e-mail documents, materials, etc. supporting any input you may have to **Andrea**

**Matzke:** [matzke.andrea@deg.state.or.us](mailto:matzke.andrea@deg.state.or.us) (for the toxics rule revisions) and **Koto Kishida:** [kishida.koto@deg.state.or.us](mailto:kishida.koto@deg.state.or.us) (for the nonpoint source rule revisions).

We are looking forward to your participation.

Thank You!

*Andrea Matzke, MPH*

OR DEQ | Water Quality Standards & Assessment | 503-229-5384

This email is to confirm your participation as a member of the OR Department of Environmental Quality's Nonpoint Source and Toxics Fiscal and Economic Impact Advisory Committees associated with the *Corrections and Clarifications to Toxics and Nonpoint Source Regulations Rulemaking*. DEQ anticipates that the proposed changes will be adopted by the Environmental Quality Commission (EQC) in June 2013. DEQ is holding one meeting of the Fiscal and Economic Impact Advisory Committees scheduled for:

**January 24 at DEQ Headquarters (811 SW Sixth Avenue, Portland)**

- **10:00 – 11:30 in Room EQC A, 10<sup>th</sup> Floor (Fiscal Impact Statement for Clarifications to Nonpoint Source Regulations)**
- **1:00 – 3:00 in Conference Room 10, 10<sup>th</sup> Floor (Fiscal Impact Statement for Corrections and Clarifications to Toxics Regulations)**

**Conference Call-In Number: 866-680-0146**

**Participant Code: 839266**

Participants may choose to conference call if traveling to DEQ Headquarters is inconvenient for you. Please let Andrea Matzke (contact information below) know if you will conference call in to the meeting. If you have been asked participate in the review of both fiscal impact statements, there will be a brief lunch break (on your own) between meetings. The following stakeholder groups have been asked to participate in the review of the fiscal impact statements for both rules:

- Association of Oregon Industries
- Northwest Pulp and Paper Association
- OR Association of Clean Water Agencies
- Willamette Riverkeeper
- Columbia River Inter-Tribal Fish Commission
- Oregon Farm Bureau

In addition, the following groups have been asked to participate in the review of the fiscal impact statement for the clarifications to the nonpoint source regulations:

- Oregon Forest Industries Council
- Oregon Small Woodlands Association
- Oregon Cattlemen's Association
- Oregonians for Food and Shelter
- Oregon Department of Agriculture

- Oregon Department of Forestry

As a committee member, you will be asked to review and provide input on the statement of need and fiscal and economic impact for the draft proposed rule revisions. A draft statement of need and fiscal and economic impact and proposed rule changes will be e-mailed to you no later than January 17. Please review the draft fiscal document in context of the proposed rule changes and be prepared to provide input, such as costs, benefits, and need of rulemaking at the January 24<sup>th</sup> meeting. Feel free to e-mail documents, materials, etc. supporting any input you may have to **Andrea Matzke**: [matzke.andrea@deq.state.or.us](mailto:matzke.andrea@deq.state.or.us) (for the toxics rule revisions) and **Koto Kishida**: [kishida.koto@deq.state.or.us](mailto:kishida.koto@deq.state.or.us) (for the nonpoint source rule revisions).

### **Background**

The *Corrections and Clarifications to Toxics and Nonpoint Source Regulations Rulemaking* is comprised of proposed changes to both toxics and nonpoint source regulations. Neither rulemaking presents policy issues that need to be considered. The proposed revisions are either non-substantive corrections or clarify the water quality standard consistent with the original intent. These rulemakings were combined for the purpose of program rulemaking efficiency. Given the non-substantive changes in these rulemakings, DEQ is conducting an abbreviated advisory committee process to focus on the fiscal impact statement for these rulemakings. As required for any rulemaking, DEQ is soliciting information regarding any potential fiscal impact either of the rulemakings will present. DEQ will prepare two separate fiscal statements (i.e. one for the nonpoint source revisions and one for the toxics revisions) and hold two separate meetings to review the information DEQ develops. More information about these proposed revisions is described here.

#### *Nonpoint Source Rulemaking*

- DEQ is conducting a rulemaking to remove several provisions in its water quality rules addressing nonpoint source compliance with water quality standards. These nonpoint source provisions proposed for removal from the rules duplicate and may cause confusion regarding the statutory requirements contained in the Oregon Forest Practices Act and the Agriculture Water Quality Management Act.
- This issue has come to light through the temperature litigation, and as such, DEQ has agreed to recommend to the EQC that the EQC remove these rules since they are duplicative with Oregon statutes with respect to obligations of land owners and managers to meet water quality standards.
- DEQ's commitment to conduct a rulemaking to remove these provisions and present recommended rule revisions to the Environmental Quality Commission by June 2013 is reflected in the January 7, 2013 Order from Judge Acosta.

#### *Toxics Rulemaking*

- Separately, DEQ identified the need to make certain corrections to its toxics criteria rule and associated tables. In reviewing documentation to prepare for EPA's upcoming action (by January 31, 2013) on DEQ's 2004 aquatic life criteria, DEQ identified typographical errors, omissions, and needed text clarifications. In addition, DEQ identified several typos associated with the human health criteria adopted in 2011.

- In order to ensure that all the aquatic life criteria are effective upon EPA's action (or as soon as possible thereafter), are easily found, and are clear and useable for regulatory purposes, DEQ is proposing to undertake this rulemaking now and couple the administrative process for this rulemaking with the rule addressing nonpoint sources.
- A separate toxics rulemaking will follow this rulemaking to address more complex issues such as revisions to and derivation of aquatic life toxics criteria to address the National Marine Fisheries Service's recent biological opinion and other updates, as needed.

For questions about the nonpoint source proposed revisions, please contact Gene Foster or Koto Kishida.

Gene Foster, Manager  
[foster.gene@deq.state.or.us](mailto:foster.gene@deq.state.or.us)  
503-229-5325

Koto Kishida  
[kishida.koto@deq.state.or.us](mailto:kishida.koto@deq.state.or.us)  
503-229-6381

For questions about the toxics proposed revisions, please contact Andrea Matzke or Jennifer Wigal.

Andrea Matzke  
[matzke.andrea@deq.state.or.us](mailto:matzke.andrea@deq.state.or.us)  
503-229-5384  
Jennifer Wigal, Manager  
[wigal.jennifer@deq.state.or.us](mailto:wigal.jennifer@deq.state.or.us)  
503-229-5323