

State of Oregon
Department of Environmental Quality

Memorandum

Date: Dec. 12, 2011
To: Environmental Quality Commission
From: Dick Pedersen, Director
Subject: Agenda item L, Informational item: Director's dialogue
Dec. 15-16, 2011, EQC meeting

Implementing Human Health Water Quality Standards for Toxic Pollutants

DEQ is working to implement the human health toxics rulemaking since EPA's approval of the standards on Oct. 17, 2011.

DEQ is finalizing an Internal Management Directive for water quality standards variances. The guidance describes conditions that trigger a variance, the submittal process, permit requirements and steps for developing pollutant reduction plans. DEQ anticipates completing the directive by February 2012. DEQ has offered major permit holders the opportunity to pilot the new variance process, for which staff would provide additional assistance during the development, request and approval of a variance.

Staff is currently working on incorporating guidance for using intake credits into the Reasonable Potential Internal Management Directive, which they expect to complete by January 2012. DEQ also plans to complete an internal management directive for site-specific background pollutant criterion by April 2012. Another directive, slated for completion this month, will provide guidance on developing implementation-ready TMDLs, which includes watershed-based planning methods.

DEQ will train staff and interested stakeholders on the new standards, and how to implement the standards, through the permit development process.

House Bill 3613

During the last legislative session, agricultural stakeholders worked with Representative Bentz to propose legislation addressing DEQ's and ODA's roles regulating agricultural nonpoint source pollution. The Governor's Office convened several meetings of interested parties, including the Oregon Department of Agriculture, DEQ, the Department of Justice, agricultural stakeholders and conservation and point source interests. The result was House Bill 3613, which seeks to address stakeholder concerns about the effects of the new toxics standards on the agricultural community.

The group decided to continue the conversation after session rather than attempt to push legislation forward at the time. The Governor's Office has convened the interested parties three times, with a fourth meeting scheduled for late January 2012.

The work group has focused on a 1998 Memorandum of Agreement between DEQ and ODA that it is updating to reflect the evolution of our programs. The agreement captures the salient points of the two agencies' working relationship relating to the development and implementation of TMDLs and the implementation of the Agricultural Water Quality Management Area Plans, also known as Senate Bill 1010 plans. The group is paying particular attention to understanding how DEQ involves agricultural stakeholders in TMDL development and load allocations, and how ODA measures and tracks progress toward meeting Agricultural Water Quality Management Area Plan goals. The group does not intend to introduce legislation at the upcoming 2012 Legislative Session.

Consumption-based inventory of greenhouse gas emissions

At its December 2007 meeting, the commission heard about new directions in DEQ's Solid Waste Program, which included a discussion of the state's conventional greenhouse gas inventory and how it provides a useful but incomplete picture of how Oregon contributes to emissions. Oregon's greenhouse gas inventories have been limited to emissions that originate within the state's borders, with an adjustment for imported electricity. Yet Oregon contributes many other emissions that have not been counted in the past – particularly emissions associated with products and materials consumed in state.

This October, DEQ published an estimate of the greenhouse gas emissions, globally distributed, that are associated with satisfying consumption in Oregon. The [consumption-based greenhouse gas inventory](#), when paired with the state's conventional inventory, tells a more complete story about how Oregon contributes to climate change. The Global Warming Commission has endorsed the project, and Oregon Department of Energy supports it. Results may be useful to other agencies, businesses and industry. This comprehensive perspective should help to inform investments in efforts that support both emissions reduction and a healthy economy.

Paint Product Stewardship Pilot Program

Oregon's Paint Product Stewardship Law, adopted as House Bill 3037 in 2009, established the nation's first statewide product stewardship program for managing leftover paint. This pilot program began July 2010 and is currently due to sunset in June 2014.

PaintCare, a non-profit organization created by a trade group for paint manufacturers, administers the Oregon program. PaintCare develops and implements a program plan that includes providing depots statewide where people can drop off unused paint. Under the pilot program, consumers pay for the program by paying a fee on paint containers at the point of sale. Fees range from \$0.35 to \$1.60, depending on paint container size.

DEQ must review and approve PaintCare's program plan and the assessment. Manufacturers and retailers are prohibited from selling paint unless they participate in an approved program. Retailers are required to provide consumers information on their options to recycle or safely dispose of leftover paint.

As required by statute, PaintCare submitted its first annual report to DEQ in September. First year results include:

- Collection of over 450,000 gallons of leftover paint.
- Over 90 sites collected paint, including 80 retail locations and 15 household hazardous waste collection sites.
- The pilot shifted costs of paint collection and recycling from local governments to people who buy paint.

The law required DEQ to [report](#) to the Legislature on the results of the pilot program, make recommendations on program improvements and whether the program should be permanent. Last month, DEQ submitted the report to the House Committee on Energy, Environment and Water and the Senate Committee on Environment and Natural Resources with a recommendation to make the program permanent.

Product stewardship report

The 2009 Legislature directed DEQ to continue working on the development of product stewardship policy and legislation. With Metro's assistance, DEQ convened a stakeholder group to provide input on the topic in 2010. DEQ recently published a [report](#) on the outcomes from this Product Stewardship Stakeholder Group.

The report recommends that Oregon pursue product stewardship as one strategy to reduce the environmental and public health impacts of products. It also recommends eight key elements for product stewardship programs and policy in Oregon.

ESCO update

The Portland NW District Association, Neighbors for Clean Air, the Northwest Environmental Defense Center and ESCO, a steel foundry in northwest Portland, signed a Good Neighbor Agreement Nov. 21. DEQ, ESCO and community members held a public forum Nov. 29 to discuss the agreement and questions about air quality. Representative Greenlick and Portland City Commissioner Amanda Fritz attended the meeting. Over 100 people attended the forum and the mood was positive.

DEQ's public process on ESCO's Title V permit begins this month, with a hearing in January 2012.

DEQ launches new pollution complaint intake system

On Nov. 30, DEQ implemented a new process to handle Oregonians' pollution complaints. Residents can now call a new toll-free complaint hotline, 888-997-7888, or file a complaint online. The hotline operates during regular business hours to receive, triage, enter data and assign complaints in a streamlined system designed to free up technical staff time. DEQ receives more than 3,000 environmental complaints each year. In its first week, the hotline received and posted 68 complaints to the centralized database for agency follow-up.

404/401 Water Quality certification program process improvement project update

DEQ, along with state and federal agencies involved in 404/401 water quality certification and permitting process, held a weeklong workshop in late November to identify problems in the current process and develop a proposal for an improved process. The weeklong workshop

resulted in system improvements that will be implemented over the next several months, including a new and tightly-coordinated monthly pre-application meeting, hosted by the U.S. Army Corps of Engineers, that will help applicants understand process requirements and cut duplicate requests for information from the permitting agencies.

DEQ and participating agencies will continue to work together to implement the recommended process changes and provide information about the improvements to the applicant community and interested stakeholders, such as legislators, the governor's office and other elected officials. This successful outcome is an example of DEQ and partner agencies can work together to find good government solutions to meet the needs of Oregon, its environment and permit applicants.

Columbia River Gorge air quality

The Friends of the Columbia River Gorge have appealed the Columbia River Gorge Commission's approval of the Gorge Air Quality Strategy submitted by DEQ and Washington's Southwest Clean Air Agency. The appeal alleges that the strategy fails to protect the Gorge from new pollution sources, such as coal export activities, and new sources near the Gorge, such as a proposed natural gas power plant in Troutdale. The appellants also claim that the strategy does not meet the criteria in the Gorge Management Plan or the purposes of the National Scenic Act.

DEQ and the Washington Southwest Clean Air Agency conducted a multi-year study of air quality in the Gorge, and concluded that haze in the Scenic Area comes from the same sources that affect haze in the Mt. Hood and Mt. Adams wilderness areas. These wilderness areas on either side of the Gorge are protected by the federal regional haze program, which requires ongoing improvements in visibility toward natural conditions. While the federal regional haze program does not apply directly to the Gorge, the Gorge Air Quality strategy commits to track air quality in the Gorge to confirm that it is improving from measures adopted to protect the wilderness areas. For example, the regional haze requirements for the Boardman coal-fired power plant took into account the benefits for Gorge air quality. The Gorge is also protected by construction permitting requirements for major sources, such as power plants, which prevent significant visibility impacts on Mt. Hood and Mt. Adams wilderness areas. DEQ will be tracking developments in this litigation.