

Willamette Basin Mercury TMDL

Advisory Committee Meeting Meeting Minutes

June 13, 2019

Executive Building, Conference Room A
155 Cottage St NE
Salem, Oregon 97301

Objectives: Review and discuss proposed point and nonpoint source implementation approaches in draft Water Quality Management Plan.

Time Topic

8:45 a.m. Gather and Settle

9 a.m. **Introductions**

Priscilla Woolverton, DEQ

All attendees introduced themselves, including a few people who called-in to the meeting. Following introductions, Gene Foster shared the proposed TMDL timeframe moving forward. Public comment to start early July and open for at least 60 days. DEQ will then respond to comments and make changes. TMDL issuance slated for early November, and EPA action by end of November to meet the court order.

The focus of this meeting is implementation of the WQMP. DEQ has been meeting with DMAs individually and in groups; these discussions have informed implementation planning and the draft WQMP, as well as future documents produced either through TMDL implementation plans and monitoring reports. DEQ determined that the technical analyses and inherent complexity of mercury, support aggregated wasteload and load allocations.

There are numerous strategies being considered for TMDL implementation in order to meet the water quality fish tissue criterion, including an accountability framework. OAR 340-042, and state statutes, define requirements for state forestry and agricultural implementation of TMDLs, i.e. the Forest Practices Act, and the Agricultural Water Quality Management Act. DEQ anticipates interest from some stakeholders on reasonable assurance that that existing practices and some additional efforts will be implemented and will achieve allocations over time.

DEQ recognizes with our current level of technical analysis that we are not able to separate out all of the background sources from anthropogenic sources. DEQ will continue to use adaptive management and an accountability framework to report on how instream water quality is changing. This framework will include timelines and interim milestones for total mercury, as well as for potential surrogates, like TSS.

9:20 a.m. **Total Suspended Solids Surrogate Analysis**
Janani Govindan, DEQ



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See DEQ presentations available on website.

Paul Measles began a discussion about the difficulty of being able to use TSS to track progress made to reduce erosion to surface waters, when other instream processes continue and keep TSS high. It was suggested that the model used to relate TSS and total mercury may need to be evaluated and revised every couple of years. DEQ acknowledged that instream TSS values may not reflect current management actions, but instead will provide data that support whether or not change is occurring. After review of data adjustments in management may be recommended.

Given the influence of sites as a variable in DEQs surrogate analysis, Marganne Allen expressed there must remain other variables driving the relationship between TSS and total mercury that have not been identified in the surrogate analysis. Committee members suggested that DEQ should explore dissolved organic carbon and other water quality parameters to evaluate if additional variables can help better describe the relationship between TSS and total mercury.

Kathryn VanNatta requested review of literature used for TSS Surrogate Analysis and the TetraTech memo for Surrogate Analysis.

[NOTE 1: Following the advisory committee meeting, DEQ emailed the committee a copy of Tetra Tech's Draft Memo 7/2018 regarding potential total mercury surrogate measures.]

There was a discussion about excluding non-detect values from the surrogate analysis. DEQ explained that non-detect data were excluded because detection limits were highly variable. Had detection limits been similar, non-detect values would have been included in the analysis.

Committee members questioned the use of surrogates, and wanted to know why we aren't focused on the methylmercury criterion for fish tissue. DEQ clarified the rationale for use of surrogate measures and that we are still evaluating how best to use them. DEQ and EPA are developing a monitoring framework that will evaluate progress through multiple datasets and evaluations. Surrogates can help verify whether instream conditions are improving. Fish tissue monitoring has been completed several times within the past ten years and will continue, provided resources are available.

DEQ noted that TSS is a good indicator of total mercury for instream conditions, but existing datasets are not yet adequate to show a good correlation for point source discharges.

DEQ clarified that this analysis and model only focuses on instream, and will not get into the atmospheric deposition issue. It was also stated that there is no longer an air deposition station within the Willamette basin, but will verify (may be a NOAA monitoring station within Washington County).

9:40 a.m. **Point Source Waste Load Allocations and Implementation: Q & A**
Alex Liverman, DEQ



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In an effort to maintain consistency with EPA, in situations where point source contribution is low and atmospheric deposition is the primary source, DEQ opted for an aggregate approach across sectors for waste load allocations.

Committee members had questions about quantifying reserve capacity. Reserve capacity allocation will be narrative, and applied on a case-by-case basis as permits are renewed or new permits are approved.

Kathryn VanNatta asked how the reserve capacity approach can account for expanded loads at facilities or population increases? DEQ reiterated that the need for expanding a mercury load has not yet been identified, but for a new or expanded facility that does have a large mercury load, the facility would be required to have a mature Mercury Minimization Program.

For the MS4 Phase II general permits, it is the goal that all Phase IIs go on to the newly effective (March 2019) general permit. There are a few Individual Phase II permits that will get coverage under the General Permit at renewal. These permittees could opt to apply for an individual permit, though they would likely have a more significant lift in efforts since the individual permit is modeled after Phase 1 permit requirements.

DEQ acknowledged that measures that are currently being applied by Phase I are likely sufficient for TSS reductions and address erosion control, but they will need to specifically identify mercury in their attainment analysis. Specific questions regarding MS4 Phase I permit implementation can follow-up with Alex and the stormwater program directly. DEQ and ACWA will arrange a meeting to discuss.

With regard to permitting language, DEQ stated that aggregations across sectors are with a new approach and DEQ is working closely with EPA to ensure that reasonable assurance, accountability framework, monitoring framework and measurable objectives add up to our overarching goal of meeting water quality standards

10:15 a.m. **BREAK**

10:25 a.m. **Nonpoint Source Allocations and Implementation: Q & A**

Andrea Matzke, Priscilla Woolverton, Paula Calvert, DEQ

Committee members questioned why Port of Portland, Clean Water Services, and Oak Lodge Water Service district were called out separately as “special districts” in the draft WQMP. DEQ stated that was solely because they don’t fall into the city or county section, and this does not mean they have additional or different stormwater management requirements.

Raj Kapur raised concern over the six stormwater control measures being applied to the entire county jurisdiction, which includes large rural areas. Raj encouraged DEQ to ensure requirements are ones that would apply to these situations.

Kathryn VanNatta asked for clarification of a situation where an industrial source is in a county, and has a stormwater permit. In this case, what further measures could a county ask of this type of facility? DEQ added that in that case, the assumption is that the industrial facility has a stormwater permit. However, there are facility SIC codes that are not required to obtain a permit. There have been complaints of illicit discharges to



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county stormwater conveyance systems, often vegetated roadside ditches that discharge to waters of the state. Many counties already have ordinances or regulations that don't allow illicit discharges to their conveyance system. This TMDL would require all counties to address illicit discharges.

Marganne Allen raised concern over the scale of implementation planning and reporting in regards to aligning business processes with this scale. Most agencies tend to cover multiple TMDL, statewide scales, if this process doesn't accommodate larger look, it runs risk of being at odds with overall process. How can agencies take advantage of what they are already doing and apply it to basin specific work? Need to ensure TMDL verbiage allows for calling out what is already being done.

In response to a question regarding the rigor expected of the implementation plan, as many DMAs will be reporting different things, DEQ stated that the following questions have to be answered by DMAs and responsible persons: are you implementing your implementation plan, and what is your accountability framework and reasonable assurance? DMAs and responsible persons will also be required to establish measurable objectives and reasonable assurance that they are meeting objectives of TMDL. Marganne Allen expressed a need for standardized level of monitoring and evaluation detail across all DMAs.

DEQ gave brief overview of water conveyance system implementation; clarification on scope of implementation requirements. DEQ invited the owners/operators of the water conveyance systems identified in the draft WQMP to an informational meeting in Tangent on July 17, 2019. The current draft list of responsible person may be revised based on information received during the July meeting.

Marganne Allen expressed the need for a global response to reducing mercury since mercury primarily comes from air deposition from global sources. This should be stated explicitly in the TMDL and WQMP because Oregon cannot solve this problem on our own.

12 p.m. **Optional Additional Q & A**

Alex Liverman, Andrea Matzke, Priscilla Woolverton, Paula Calvert, DEQ
Process: WQMP and stormwater implementation sections would benefit from specificity. Committee members can contact Priscilla or Andrea directly with questions or comments, but DEQ strongly recommends that all committee members submit comments/questions during the public comment period

12:30 p.m. **Adjourn**

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.



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