



State of Oregon Department of Environmental Quality

Advisory Committee Charter

Willamette Basin Mercury Total Maximum Daily Load

Contact: Paula Calvert
503-229-5101

Last update: Dec. 5, 2017

Authority

The authorities for convening this advisory committee are ORS 183.333 and OAR 340-042-0050(1).

Objectives and scope

This committee's purpose is to provide input to the Oregon Department of Environmental Quality (DEQ) related to development of a revised Total Maximum Daily Load (TMDL) and Water Quality Management Plan (WQMP) for mercury in the Willamette Basin. DEQ is developing a revised TMDL for mercury to account for a more stringent methylmercury fish tissue criterion that was adopted by Oregon in 2011, and to respond to an [April 2017 District Court decision](#) to update the TMDL by April 2019.

Given the short timeline to develop a TMDL, DEQ anticipates that the majority of the advisory committee's input will focus on source identification, allocations, and prioritization for implementation.

The advisory committee will be informed by DEQ on the technical merits of the models used to develop the TMDL. The purpose of this advisory committee is to evaluate implications associated with modeling results and to provide input to DEQ for development of an implementable WQMP to meet nonpoint source load allocations and waste load allocations assigned to point sources. DEQ will inform the advisory committee of EPA's technical approach, including modeling objectives and assumptions, as well as fate and transport of mercury in the environment, at the initial meetings. These meetings will provide context for subsequent presentations, which may be given by Designated Management Agencies (DMAs), related to implementation topics including how allocations will be achieved. The advisory committee will provide suggestions to DEQ with information on potential effectiveness of management strategies that may be used by DMAs.

Background

In September 2006, Oregon submitted and EPA approved a mercury TMDL for the entire Willamette Basin. The TMDL was developed to meet the fish tissue methylmercury criterion of 0.30 mg/kg. The 2006 TMDL also set a water column guidance value for total mercury at 0.92ng/L. The TMDL did not set numerical water quality based effluent limits for individual point sources because of data limitations. Instead, it established "sector-specific allocations" that would be used to define the extent of the problem and to identify the level of effort needed to address the bioaccumulation of mercury in fish. In the 2006 TMDL, mercury reduction plans from point and nonpoint sources were the primary vehicles to reduce mercury in the basin. Monitoring and data collection were also required of specific point sources and point source sectors. These data, as well as other available data, will be used to revise the TMDL.

In October 2011, EPA approved Oregon's revisions to its methylmercury fish tissue criterion for the protection of human health, which changed the acceptable fish tissue level from 0.30 mg/kg to a more

protective 0.040 mg/kg. In 2012, a Northwest Environmental Advocates lawsuit claimed that EPA's approval of various Oregon TMDLs, including the Willamette Mercury TMDL, was arbitrary and capricious. Specific to the Willamette Mercury TMDL, NWEA argued, in part, that the TMDL did not meet all water quality standards, did not include individual waste load allocations, and was not expressed in terms of daily loads.

In April 2017, District Court Judge Hernandez supported NWEA's complaint, but remanded the TMDL (rather than voiding it) to EPA and Oregon, and set a two-year deadline for EPA and the state to revise the TMDL. The TMDL must be revised by April 2019.

To meet this deadline, Oregon DEQ and EPA formed a team to revise the Willamette Basin Mercury TMDL. The team consists of staff and management from DEQ, EPA Watershed Unit staff, including a regional mercury expert, and contractor support. EPA is leading technical work associated with modeling mass balance of mercury in the watershed, and biomagnification of mercury in the food web. DEQ is leading the development of the TMDL implementation planning process, which includes convening this advisory committee to help identify ways to reduce mercury pollution and address load and wasteload allocations.

Ultimately, the goal of the revised TMDL is to reduce mercury in the Willamette Basin to levels allowing safe consumption of fish and shellfish and meet water quality standards for the protection of aquatic life.

TMDL technical approach

Because of the court-ordered deadline, DEQ and EPA are relying on a technical approach similar to that used in the 2006 TMDL. However, there is considerably more data available than during the development of the first TMDL, so modeling should reflect substantial improvements. The technical approach contains three major components:

1. **Watershed Loading/Mass Balance Model**— Connects mercury sources to mercury levels in the river network. A more recent watershed model, which uses the Hydrological Simulation Program - FORTRAN (HSPF), will simulate movement of mercury via flow and sediment routing.
2. **Food Web Model**—Identifies links between fish exposure to mercury in the environment and mercury contamination in fish. Environmental mercury experts reviewed the food web model used in the 2006 TMDL for application in the revised TMDL. They found it remains representative of current science.
3. **Mercury Translator**—Converts measurements of total mercury to dissolved methylmercury. Total mercury is one of the most commonly sampled forms of mercury and this translation allows greater use of total mercury data by providing reasonable estimates of dissolved methylmercury, which is the primary mercury form for fish uptake.

Topics

The first several meetings will provide an overview of fate, transport and sources of mercury in the environment, data sources, and a description of the models used and the technical approach. Advisory committee topics will primarily focus on sources of allocated pollutants or surrogates, allocation

scenarios, and implementation prioritization. Individual meeting agendas will identify specific topics of discussion where DEQ needs input.

DEQ will inform the committee regarding:

- Model results, mercury loading capacity
- Potential use of mercury surrogates, such as use of total suspended solids data
- Water translators: relationship of total mercury to dissolved methylmercury
- Methylation processes and control mechanisms

Advisory Committee will provide:

- Knowledge on sources of mercury in the Willamette Basin: land uses, air deposition, point source discharges

After discussions with DMAs, DEQ will follow up with the advisory committee on:

- Relationship between management strategies and attainment of water quality standards
- Nonpoint source implementation measures:
 - State and federal forests
 - agriculture
 - mining
 - dams
 - cities, counties non-permitted stormwater impacts
 - other local jurisdictions
 - other state agencies
- Point source implications:
 - Processes to calculate effluent limits, monitoring requirements and analytical methods
 - Mercury minimization plans
 - Variances, intake credits, compliance schedules, or other permitting tools to meet waste load allocations
 - Evaluation of municipal stormwater (i.e. Municipal Separate Stormwater Sewer System, MS4) waste load allocations

Prior to the public comment period, DEQ will seek review and input from the advisory committee on:

- TMDL document
- Water Quality Management Plan (WQMP)
 - Identification of responsible participants or Designated Management Agencies
 - Mercury monitoring plan development to measure progress
 - Potential mercury management strategies
 - Proposed timeline for implementing management strategies

Timeline

The following milestones comprise the major elements of the TMDL project timeline:

- **December 2017 – August 2018:** Advisory committee meetings
- **Early March 2018:** Receive modeling report from EPA contractor
- **Early October 2018:** Finalize draft TMDL and WQMP
- **October – November 2018:** Begin public comment period for TMDL and WQMP
- **January 2019:** Completion of response to comments
- **Late January 2019:** DEQ submission of revised TMDL to EPA
- **April 5, 2019:** Submission of EPA approved TMDL to court

Committee meetings

1. All committee meetings will be:
 - Open to the public
 - Advertised on DEQ’s webpage calendar prior to the meeting at: [DEQ Event Calendar](#)
 - **Advertised through public notices and news releases, and posted to the Willamette Basin mercury TMDL website**
 - **Noticed by Gov Delivery email** to the following topic groups with number of subscribers:
 - i. Nonpoint Source Water Quality (3,272)
 - ii. Total Maximum Daily Loads (3,336)
 - iii. Water Quality Permits (2,460)
 - Noticed on DEQ’s Facebook/Twitter account
 - Accessible via a call-in number or webinar

The committee is expected to meet seven times on the following dates. Meeting duration times and dates may vary depending on topics, committee progress, and member availability. In addition, meeting locations will likely vary and will be determined at least one month prior to each meeting.

- **Dec. 5, 2017:** 10 a.m. – 3 p.m.
- **Jan. 18, 2018:** 10 a.m. – 3 p.m.
- **Feb. 15, 2018:** 10 a.m. – 3 p.m.
- **April 11, 2018:** 10 a.m. – 3 p.m.
- **June 13, 2018:** 10 a.m. – 3 p.m.
- **July 17, 2018:** 10 a.m. – 3 p.m.
- **Aug. 22, 2018:** 10 a.m. – 3 p.m.

2. Meeting materials and agenda will be posted to the advisory committee webpage at least one week prior to each meeting.

Decision making

DEQ will not seek consensus recommendations from the committee, although DEQ will ask for input from each committee member and gauge the committee’s overall level of support.

The committee’s discussions will be valuable to DEQ in forming its draft TMDL and Water Quality Management Plan. These documents will then be available for broader public review and comment as part of DEQ’s TMDL development process.

When DEQ shares information with the group, DEQ will allow a reasonable timeframe for comments.

Membership

In convening this committee, DEQ selected members that reflect the range of stakeholders both directly and indirectly affected by implementation of a revised TMDL for mercury. Representatives should be able to consider the policy and implementation considerations expected to meet TMDL requirements to the business, organization or land use they represent.

The U.S. Environmental Protection Agency’s technical and regulatory resource will be Alan Henning.

Table 1: Advisory Committee Membership

Committee Member	Affiliation	Representing	Contact Information
1. Marganne Allen	Oregon Dept. of Forestry	State forestry	marganne.allen@oregon.gov 503-945-7240
2. Bob Bilby	Weyerhaeuser	Large private forest land owner	bob.bilby@weyerhaeuser.com 206-539-4180
3. Norman Buccola	U.S. Army Corps of Engineers	Federal dams	norman.buccola@usace.army.mil 503-808-4837
4. Mike Brown	Bureau of Land Management	Federal forests	mebrown@blm.gov 503-808-6662
5. Mary Anne Cooper	Oregon Farm Bureau	Trade association: agriculture	maryannecooper@oregonfb.org 541-740-4062
6. Heath Curtiss	Oregon Forest & Industries Council	Trade association: large private forest land owner and product manufacturers	heath@ofic.com 503-586-1241
7. Kenton Doughty	Oregon Dept. of Fish & Wildlife	State fisheries	kenton.c.doughty@state.or.us 503-947-6253
8. Mike Freese	Oregon Business and Industry	Trade association: industrial dischargers	mfreese@theromaingroup.com 503-226-8090
9. Amanda Gilbert	Coast Fork Willamette Watershed Council	Environmental	coordinator@coastfork.org 541-767-9717
10. Lori Grant	Oregon Environmental Council	Environmental	lorig@oeonline.org 503-222-1963 Ext 116
11. Matt Herb	Small seed producer, South Santiam watershed	Small agricultural producer	matt.herb@cpsagu.com 541-497-8436
12. Johan Hogervorst	U.S. Forest Service	Federal forests	jhogervorst@fs.fed.us 541-225-6430
13. Eric Horning	Horning Farms	Large agricultural producer	ehorning@casco.net 541-753-3004
14. Robert Houston	Oregon Department of Geology and Mineral Industries	State mining	robert.houston@oregon.gov 541-619-4653

15. Raj Kapur	Clean Water Services	Large domestic discharger	KapurR@CleanWaterServices.org 503-681-4424
16. Paul Measles	Oregon Department of Agriculture	State agriculture	pmeasels@oda.state.or.us 503-986-4778
17. David Neal	Soil and Water Conservation District	Special district: agriculture	davidn@orpacfeed.com 541-740-5957
18. Michael O’Leary	Association of Northwest Steelheaders	Fisheries	michael@publicpurposes.com 503-970-8214
19. Kristin Preston	City of Albany	Small domestic discharger	kristin.preston@cityofalbany.net 541-917-7635
20. Krista Reininga	Brown and Caldwell	Municipal stormwater (Phase I MS4)	kreininga@brwncald.com 503-977- 6645
21. Brent Stevenson	Santiam Water Control District	Special district: agriculture	brents.swcd@wvi.com 503-769-2669
22. Jeff Stone	Oregon Association of Nurseries	Agriculture	jstone@oan.org 971-235-3868
23. Matt Stouder	City of Springfield	Municipal stormwater (Phase II MS4)	mstouder@springfield-or.gov 541-736-1006
24. Kathryn VanNatta	Northwest Pulp and Paper Industry	Pulp and paper dischargers	kathryn@nwpulpanpaper.org 503-844-9540
25. Travis Williams	Willamette Riverkeeper	Environmental	travis@willametteriverkeeper.org 503-223-6418
Alternate Affiliation Representing Contact Information			
1. Seth Barnes	Oregon Forest & Industries Council	Trade association: large private forest land owner and product manufacturers	seth@ofic.com 503-586-1243
2. Dave Downing	Soil and Water Conservation District	Special district: agriculture	dave.downing@or.nacdnet.net 541-465-6443 Ext 5
3. Bob Rees	Association of Northwest Steelheaders	Fisheries	executivedirector@anws.org 503-812-9036
DEQ Team Title Contact Information			
1. Spencer Bohaboy	Policy Development Specialist, Permitting		bohaboy.spencer@deq.state.or.us 503-229-5415
2. Paula Calvert	Project Manager / Columbia River Coordinator		calvert.paula@deq.state.or.us 503-229-5101
3. Gene Foster	Watershed Management Section Manager		foster.eugene@deq.state.or.us 503-229-5325
4. Andrea Matzke	Lower Willamette Basin Coordinator		matzke.andrea@deq.state.or.us 503-229-5350
5. Priscilla Woolverton	Upper Willamette Basin Coordinator		woolverton.priscilla@deq.state.or.us 541-687-7347

Roles

DEQ facilitator

The facilitator:

- Encourages open, candid and robust dialogue;
- Starts and ends the meetings and agenda items on time;
- Encourages innovation by listening to all ideas;
- Tries not to lose good ideas; and
- Recognizes when the discussion is outside the scope of the meeting and steers the discussion back to the focus of the meeting.

Committee members

Advisory committee members should attend each meeting in person to ensure continuity throughout the process. An alternate may be assigned if needed. However, it is each committee member's responsibility to fully brief their alternate on all relevant issues and prior committee discussions in order to meet the meeting objectives and keep the project on schedule. The primary and alternate members of the committee cannot participate as advisory committee members at the same time. If a member's absence is unavoidable, please notify the DEQ project manager.

The committee member:

- Prepares for and sets aside time for the meetings;
- Provides DEQ staff with copies of relevant research and documentation cited during the meeting;
- Stays focused on the specific agenda topics for each meeting;
- Comments constructively and in good faith;
- Consults regularly with stakeholders to inform them on the process and gather their input;
- Treats everyone and his or her opinions with respect;
- Allows one person to speak at a time;
- Is courteous by not engaging in sidebar discussions; and
- Avoids representing to the public or media the views of any other committee member or the committee as a whole.

Non-Committee Member Attendees

Those who attend the committee meetings, but are not members of the committee are there only to observe and not to actively participate. If time is available, DEQ may allow non-committee attendees to provide comments or ask questions. Anyone who is interested in providing feedback will be able to do so during DEQ's public comment period, which is expected to begin in October 2018.

DEQ staff

DEQ is committed to making the most effective use of committee members' time by:

- Establishing clear committee goals, meeting objectives and agendas;
- Giving committee members reasonable access to staff;
- Encouraging all members to take part in discussions; and

- Providing a clear description of members' roles, the committee timeline, the level of agreement expected and feedback on how members' input is used.

DEQ support and website

The DEQ project manager will post agenda and meeting materials on the advisory committee website at least one week in advance. DEQ will provide meeting summaries that highlight committee discussions, different perspectives and input of committee members. DEQ will not prepare a formal committee report. The DEQ project manager will send draft meeting summaries to the advisory committee for review and input. Final meeting minutes will be posted to the advisory committee website and will be part of the public record.

The advisory committee charter, meeting agendas and minutes, and background materials will all be located on the following advisory committee webpage:

<http://www.oregon.gov/deq/wq/tmdls/Pages/willhgtmdlac2018.aspx>

Travel expenses

DEQ is able to reimburse any in state, out-of-town committee members for travel expenses, if DEQ approves them in advance.

Public records and confidentiality

Committee communications and records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records and are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings. However, the private documents of individual committee members generally are not considered public records if DEQ does not have copies.

Information exchange

Committee members will provide information as much in advance as possible of the meeting at which such information is used. The members will also share all relevant information with each other to the maximum extent possible. If a member believes the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it.

Public involvement

All meetings will be open to the public. DEQ may set aside time for the public to speak. Additionally, citizens who wish to submit comments are encouraged to communicate directly with a committee member or directly with DEQ staff.

Once the committee process is complete, DEQ will develop a draft TMDL and Water Quality Management Plan and provide a public comment period according to the requirements of the state Administrative Procedures Act. Individual committee members may provide comments to DEQ on the full draft TMDL documents at this time. DEQ may modify final TMDL documents based on public comment.

DEQ Contacts

Primary Contact

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Alternate contacts

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Alternative formats

Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.