Cleaner Air Oregon

Rules Advisory Committee Meeting Summary

April 4, 2017

April 4, 2017, 9 am to 5 pm
Sprouts meeting venue
418 A St, Springfield, OR 97477

Attendees:

Rules Advisory Committee (RAC) Co-Chairs:

Claudia Powers
Jackie Dingfelder

RAC members:

Akash Singh (new member, replacing Jo Ann Hardesty)
Al Hooton
Diana Rohlman
Ellen Porter (alternate for Lee Fortier)
Gordon Zimmerman
Huy Ong
Jae Douglas (alternate for Paul Lewis)
Jay Bozievich
Jessica Applegate
Joel Fischer
Josh Hall
Kathryn VanNatta
Laura Seyler
Lee Fortier (on phone)
Linda George
Lisa Arkin
Mary Peveto
Maura Fahey (alternate for Mark Riskedahl)
Michael Freese
Patrick Luedtke
Ramona Quinn
Steven Anderson
Susan Anderson
Tom Wood

DEQ/OHA staff and consultants:

Carol Thornberg, DEQ
Courtney Brown, DEQ
Dave Farrer, OHA
Jaclyn Palermo, DEQ
Jill Inahara, DEQ
Joe Westersund, DEQ
John Donovan, Metropolitan Group
Keith Johnson, DEQ
Matt Gilman, OHA
Michelle Halle, Barlow Strategies
Phil Allen, DEQ
Sarah Armitage, DEQ
Sue MacMillan, DEQ

WELCOME AND INTRODUCTIONS

John Donovan welcomed everyone to the meeting of the Rules Advisory Committee (RAC), and mentioned some RAC members were attending by phone, including Lee Fortier.

Co-chairs Dingfelder and Powers welcomed advisory committee members and introduced alternates: Maura Fahey (for Mark Riskedahl) and Jae Douglas (for Paul Lewis). They also announced that Akash Singh would be a new permanent RAC member, replacing Jo Ann Hardesty. Facilitator John Donovan reviewed the agenda and logistics.

SCREENING PROCESS EXAMPLES TO ILLUSTRATE DRAFT FRAMEWORK:

Joe Westersund of DEQ walked people through the proposed rule framework by using generic example facilities to show how the tiered screening steps proposed for the Cleaner Air Oregon program would work. Jill Inhara, Sarah Armitage, and Phil Allen of DEQ, and Dr. Dave Farrer of Oregon Health Authority, presented the specifics of the rule framework and answered related questions from the RAC.

Will stack testing be necessary under the proposed Cleaner Air Oregon rules? *Response: A source could use emission factors in many cases, and may not have to do stack testing.*

Please explain the use of reference emissions rate (RERs) and risk-based concentrations (RBCs). *Response: RERs are back-calculated from RBCs by the agencies. RBCs and RERs would be listed in the draft rule language. As new toxicological data becomes available over time, DEQ would initiate a rulemaking to update the RBCs and RERs. One chemical can have up to three types of RERs: for 1) cancer, 2) chronic non-cancer, and 3) short-term non-cancer health effects.*

Facilities that drop out at the *de minimis* step should be included in a cumulative risk area evaluation. Sensitive populations which are located right next to a facility need to be considered. Why would sources identified as *de minimis* not be required to provide ongoing reporting information, and how does that relate to cumulative risk over time? D*e minimis* facilities should be tracked over time.

Response: The point of setting a de minimis level is to avoid spending agency resources- and the resources of companies- on facilities that present a very low risk. Data for de minimis facilities would be kept in a database at DEQ and available for public records requests.

What happens if a source exceeds only one of the RERs or RBCs, but not the other two? For example, what if a source exceeds only the cancer-based values, but neither of the non-cancer-based values? *Response: Risk for all three risk types (cancer, chronic non-cancer and acute non-cancer) must be below allowable risk in order to screen out.*

Are non-cancer-RERs being created based on specific target organ effects, or were various non-cancer effects being mixed? *Response: Non-cancer RERs for individual chemicals are developed with only one target organ (the most sensitive one) in mind. In the lower levels of screening analysis, all non-cancer risks would be considered cumulatively, regardless of the target organs affected. In more refined analysis steps (currently proposed as level 5), non-cancer risks can and should be separated by target organ.*

Will the new Cleaner Air Oregon program follow current permitting requirements? *Response: The proposed Cleaner Air Oregon permitting protocols are likely to follow DEQ's current permitting regime, which includes either 5-year or 10-year permits, similar to what the agency already does. DEQ does not have permits based on annual renewal requirements. There will still be provisions in the rules for changes and permit modifications.*

How did the agencies choose 0.5 as the *de minimis* allowable risk level? What risk levels are used in other states? *Response: Washington's de minimis level is 1/20 of their Significant Emission Rate (SER, similar to our RER). One twentieth of our proposed facility cancer allowable risk of 10 in a million is 0.5.*

Will the Cleaner Air Oregon rules spell out which methods will be used for which models, for example in regard to the use of the AERSCREEN model at the Analysis 3 level? The parameters appropriate to use as input to the model should be included in the rules, because right now there is no such transparency. *Response: Many of the input parameters vary by facility, such as stack height, distance to nearest receptors, etc., so it would be difficult to come up with a generic set of parameters that are appropriate for every single source. The Cleaner Air Oregon rules team is still discussing this issue internally, but there will be boundaries placed on the inputs to the models. Any modeling protocols that a source wants to use would be proposed to DEQ prior to a source running the model, and DEQ would review that protocol first.*

How do the toxicity values for cancer and non-cancer effects differ? *Response: In the case of non-cancer toxicity values, the non-cancer Reference Concentration (RfC) is directly used as an RBC, based on the way the RfC is calculated. This is not true for cancer-based toxicity values; in this case, the available toxicity value is an Inhalation Unit Risk factor. In order to obtain a risk-based concentration that is protective to 1 in 1 million for cancer risk, you have to divide 1 in 1 million in decimal form (0.000001) by the Inhalation Unit Risk value. The result is a cancer-based RBC.*

Will the ATSAC process still be used under the Cleaner Air Oregon program? *Response: The ATSAC values currently available will be used as the first tier in the hierarchy of authoritative*

bodies proposed for use in choosing RBCs. The ongoing role of the ATSAC in relation to Cleaner Air Oregon is still being discussed internally.

A fourth category of RBC should be considered that would be based on the effects of bioaccumulative chemicals that cause effects beyond the exposure pathway of inhalation. *Response: For the subset of air toxics which are bioaccumulative, the agencies are proposing to build that consideration into the calculation of RERs. When calculating RERs, we would apply a factor related to bioaccumulation when back-calculating from the RBCs.*

This process that the agencies just described must be transparent to the public in regard to exactly how the calculations are performed -- in other words, "show your work". *Response: Explanatory footnotes will be provided in the RBC table that will be part of the proposed rules.*

In regard to estimating risk using RBCs, have the agencies accounted for compounding conservatism in the risk assumptions? *Response: We don't believe that the additivity included in the risk assumptions constitutes compounding conservatism. Because we don't have a quantifiable way to look at things like synergism among multiple chemicals, the additivity used to calculate cumulative risk is appropriate, and is a recognized standard approach.*

Each analysis layer used has its own set of conservative assumptions. Doesn't this cause excessive conservatism? *Response: RBCs do have conservatism built in. Subsequently then, and, intentionally, RERs have a lot of conservatism built in. Therefore, if a facility screens out through the use of RERs, we can be very confident there's no significant risk associated with that facility. However, as you increase in evaluation complexity with the steps, you get to use more and more site-specific parameters and refined models, which should provide a more accurate and less worst-case picture of the risk at that particular site. Screening values such as RERs must be very conservative in order to serve the purpose for which they're intended. In all of the topics being discussed, there will be some inherent uncertainty. As such, public health officials err on the side of protecting the public.*

The rules must be clear and transparent, particularly in regard to where these conservative assumptions come into play, and which are based on policy decisions. Must also make sure rules clearly explain that a facility that goes through the higher steps of analysis does not automatically indicate a higher degree of risk at that facility.

One RAC member said the greatest indicator of public health is employment, and wondered if the conservative risk assumptions that will be a part of Cleaner Air Oregon will really be protecting public health in the big picture (implying that an unintended consequence of the rules might be to decrease employment). A second RAC member responded that if everyone had access to health insurance, whether or not they had a job, then that factor would make a big difference in public health.

For a facility that already has control technologies in place, will that be taken into account if that facility has to go through the modeling steps? *Response: The calculation of emissions will be facility-specific. When a facility calculates their emissions, they should take into account control devices that they are required to operate within their current permits. As far as having to do stack testing, there are EPA assumptions and/or estimates that could be used instead of doing actual testing. DEQ doesn't expect anyone to have to do source testing to comply with the proposed rules.*

However, if a facility has to go through the Analysis 5 level, then a facility may want to conduct source testing to provide a more accurate estimate of emissions.

Although we understand that the AERMOD model uses site-specific info, where in the process is community-specific information considered, such as how near the facility is to a school? *Response: Part of the analysis process involves assessing which human receptors will be evaluated in each case. The Cleaner Air Oregon team is still in the process of working out the details on this issue, such as whether receptor locations should be based on potential use (zoning) or actual current use.*

RBCs are designed to be protective of the most vulnerable and sensitive people. Residences would have the most conservative assumptions about exposure, like exposure occurring over a whole lifetime, and assuming that children live there.

Why wouldn't a facility skip the earlier steps and just go straight to using AERMOD? *Response: Facilities can choose to do this, but going through the earlier steps might show that the facility can screen out at an earlier level, with less cost and complexity.*

A permit applicant needs to be able to identify specific decision points in the process so that a cost-benefit analysis can be done to decide which types of actions are most cost-efficient, such as whether to install more controls, or do refined modeling, etc. These types of decision points need be clearly identified in the Cleaner Air Oregon process. They will be important for the public to understand how such decisions are made.

For many emitted pollutants, the chemical form in which they're actually emitted is dependent on various processes among specific industries, and chemicals can easily react with each other to produce other chemicals. Will process-specific characteristics be taken into account in regard to what other chemicals are being created? *Response: Each facility must calculate its own emissions for use in the screening process. In regard to chemical reactions that occur after the chemicals are emitted, the air dispersion models we're discussing (AERSCREEN and AERMOD) evaluate how a chemical disperses once it's in the air. They don't account for chemical reactions that occur after the chemicals are emitted*.

Why is there a proposal to conduct a facility-by-facility analysis before we actually address the risk a community is facing from multiple facilities? How do we set *de minimis* and screening levels across the state that can take the varying complexity of all the different communities into account? What if there is an area that has 20 facilities that are impacting a certain receptor? *Response: Jill Inahara's presentation will discuss cumulative risk from multiple facilities near each other in a single area. It would take 20 de minimis sources affecting the same receptor to add up to the allowable risk for a single facility, and it would be unlikely for that many facilities to be that close together.*

The agencies have to provide clearer explanation of what a 10 in 1 million risk means, and what a Hazard Quotient (HQ) of 1 means, and be specific that these risks are in addition to other, already-existing risk factors. In effect, we will be letting facilities add to the existing load of air pollutants. Please clarify that what we're calling RERs now were previously referred to as SERs. The agencies need to be consistent in the use of these kinds of terms to avoid confusion.

Will a public record be available to homebuyers that alerts them to the presence of *de minimis*

facilities in the area in which they're considering purchasing a home? *Response: Data on de minimis facilities (and others) would be kept in a database, and agencies are discussing how best to make that data available to the public.*

How will new emission units be handled? *Response: For example, if a new proposed facility is planning on having three new emission units, then it would use the same process already discussed. However, as was shown on slide 30 of the presentation (Allowable risk for new facilities), if a new emissions unit doesn't have Best Available Control Technology for Air Toxics (TBACT) installed, then the emission unit must meet a cancer-based risk limit 1 in a million; if the unit has TBACT, then it would have to meet a cancer-based risk limit of 5 in a million.*

Is there, or will there be, a specific definition in rules of what constitutes an emission unit? Because if not, then a definition is critical and needs to be included. For example, in some cases, multiple emission units are controlled by the same system, and there are other, more complex examples that need to be considered. Response: DEQ does provide a definition for an emission unit in rule.

Will there be a chart that provides us with explanations for terms like HI (Hazard Index) and other terms used by Cleaner Air Oregon? *Response: The term HI indicates how many times above the non-cancer toxicity threshold a concentration is. The term HQ refers to a Hazard Quotient, which represents the non-cancer risk associated with an individual chemical, while HI is the summation of HQ values for multiple chemicals.*

One RAC member stated that there were multiple furnaces inside a glass factory facility near her home. She asked how emissions would be measured if different glass "recipes" are used at different times, and if emissions from multiple furnaces are funneled through only one bag house. *Response: In the facility's reporting of their emissions, they would need to work with the agencies to determine what the worst-case recipe or combination of recipes is. So, in regard to the example just described, the agencies would base risk estimates on controlled emissions from the bag house.*

How is the term "area" defined in regard to cumulative risk from multiple facilities in an area? It is important for us to be able to understand this clearly, and that the definition of an area requires conservative assumptions.

What happens if a facility goes all the way through the steps, including Level 5 Analysis, and still has unacceptable risk? *Response: If a facility goes all the way through the Level 5 Analysis and still has unacceptable risk, then the facility would have two options: develop a Risk Reduction Plan or install TBACT on each significant emissions unit and apply for a Conditional Risk Level. In either option, the facility would be required to develop and implement a Community Engagement Plan*.

The agency is supposed to be moving from a technology-based air permitting program to a health-based program, but the current proposed program does not appear to be a health-based approach.

Who would review the Community Engagement Plans? *Response: DEQ staff will review Community Engagement Plans.*

With respect to multi-facility cumulative risk, how would the boundaries of an such an area be set? Might a single facility end up being located in multiple, overlapping areas? *Response: [There was*

confusion about this topic at the meeting. Risk posed by multiple facilities located close together would be evaluated using an AERMOD model that included all the facilities, and looking at whether there were locations where the total impact of their overlapping emissions were above the area allowable risk limit. So, the model results would determine whether there were receptor locations that were above allowable risk. There would not be area boundaries, except that the agencies would determine which areas were of possible concern and therefore which areas to include in the model.]

There were several questions and ideas about what the rules should require of facilities that are above allowable risk levels. A RAC member asked what other states did in this situation. *Response: Some states still grant permits if a facility goes over a certain risk level, and some do not.*

Is there any situation where the agencies would require the facility to stop production until facility risk levels are brought down? *Response: Under the proposed framework, facilities would have to submit a Risk Reduction Plan or install TBACT and apply for a Conditional Risk Level if they are above allowable risk. In addition, if their emissions contribute to risk at a receptor location that exceeds the area allowable risk, they wouldn't be able to modify their facility in a way that increases emissions, and no new facilities would be able to build in a spot that would impact that same receptor location. But, the draft framework would not require existing facilities to shut down or curtail operations, even if they are above allowable risk levels.*

How was the range for a possible area allowable risk limit developed? *Response: The draft framework suggested that a multi-facility area allowable risk limit could be set between 20 in a million to 80 in a million for cancer, and a Hazard Index between 2 and 4 for non-cancer risk. EPA's 2011 National Air Toxics Assessment (NATA) had estimated that the total cancer risk statewide was about 40 in a million. The NATA estimate included industrial sources as well as other emissions sources such as mobile engines and wood stoves, which would not be regulated by Cleaner Air Oregon. The 20-to-80-in-a-million risk range proposed for comment in the draft framework used 40 as a starting point, and divided it by two to get 20, and multiplied it by 2 to get 80.*

One RAC member said that he NATA statewide average isn't relevant to air toxics, and so didn't understand why it's being used. Suggested starting from the local background specific to different places.

WORKING LUNCH: FISCAL AND LEGISLATIVE UPDATE

Greg Aldrich, Amber Taylor, and Matt Davis of DEQ presented information on agency budgets and where funding for Cleaner Air Oregon would come from.

PUBLIC COMMENT PERIOD

Members of the public that commented:

- **Greg Thelen**: Native Oregonian, lives in Portland. Technically oriented, licensed journeyman, electrician, educator and school administrator. Believes in progress and supports industry. All people have right to breathe healthy air. Interested in apparent dichotomy between what comes out of stacks versus the small amounts that actually affect people's health. Toxics are measured at the fenceline or in nearby neighborhoods. Air contamination

from industry has been the elephant in the room. World's atmosphere is finite, and is becoming compromised. There will be a day of reckoning. CAO rules will help in some measure with this. People are realizing that the new health-based rules will only affect a tiny amount of their overall exposures, and costs. The numbers proposed this morning, the range of allowable risks for industry will make industry's day; they are NOT health-based.

- **Carroll Johnston**, Salem: Concerned with how emissions will affect people, animals. Knows there is slippage in the system; including with data collection. Waste incinerators can have down times during which time the incinerator can emit a month's worth of toxics, going from high temperature to lower temperature shifts, and back again. This type of data is then used to evaluate facility, which is not good. If there was ongoing testing for things like mercury in fish, and the moss studies, we could show whether CAO program is actually having an effect.
- **Marilyn Koenitzer** (League of Women Voters of Oregon): Studying air pollution since 1968. Read directly from a letter that will be included in the public submittals document.
- **Scarlett Philibosian**: Regulations for public health are vital, but are meaningless without strict enforcement and thorough monitoring. Increase in regulation is wrongly thought to conflict with providing and keeping jobs; this is false. Some people have already paid with their lives due to health problems – this must stop. Many of our industrial facilities will simply not be voluntarily cooperative, so we must enforce. Bring swift financial penalties to those sources which are not meeting the standards.

COMMITTEE MEMBER DISCUSSION

Jay Bozievich : Leaving early, so will say his part now. He agrees with most of the CAO proposed framework. Questions the 20-80 in a million risk range for area cumulative risk limits, though. How will the CAO framework be executed, and how will DEQ be able to staff up to meet the needs of this new program? Will they be able to staff up? No matter what we do, we will still be breathing air that will cause cancer in our communities in Oregon. LRAPA, of which he is a board member, has to duplicate anything that DEQ adopts, and he thinks that the CAO program requirements will impose on Lane County facilities, most of which are smaller, a huge cost. You need to set a better basis for the 20-80 in a million cancer risk range for area cumulative risks.

Huy Ong: Not many comments. Appreciated public comments just heard. Cleaner Air Oregon should sharpen up some of the pieces of the proposed rules.

<u>WALK-THROUGH OF THE DRAFT FRAMEWORK TABLE:</u>

Sarah Armitage, Dave Farrer, Jill Inhara, and Phil Allen walked through of all the proposed elements in the draft framework table (one of the meeting handouts) and took questions.

How long will it take to identify facilities? Response: *We will probably look at facilities in areas of high risk first.*

How will facilities deal with something that doesn't fit the current definition of an emission unit? The definition of an emission unit needs to be very clear. *Response: This is something we need to*

think about, because right now facilities define what their emission units are.

Can an emission unit be defined as an expansion? The primary question is: what will the trigger be? *Response: We do have a definition for emission unit, in OAR Division 200. But, for example, one facility identified hundreds of emission units, while the next facility lumped similar things together into a just a few emission units. Also, fugitive emissions are hard to quantify or measure.*

When will list of Categorical Exemptions for this proposed program be available? *Response: May 2017.*

In regard to Program Element 4, what does the phrase "regularly report" mean? *Response: Every year in most cases, then maybe every 3 years.*

What process will the agencies use to either add or remove chemicals from the list of regulated chemicals? *Response: About every 3 years, agency toxicologists will review the authoritative bodies listed in the hierarchy to see if there are any new numbers. Or if ATSAC meets in the intervening years and make decisions, we will use those decisions.*

Will RBCs and RERs be in rule, and will revisions to them go through the Air Toxics Science Advisory Committee (ATSAC)? *Response: RBCs will be in rule, so any change will go through a rulemaking process with related public comment periods. We're still talking about how and when to use the ATSAC in the CAO process. If we start to use ATSAC as part of a regulatory process, we at least will have to change the ATSAC charter.*

Where will the RBC-related information be stored and how will it be accessible to outside entities? *Response: All authoritative body numbers are already public information, so people can go to the body websites to get the information. Air toxics that don't have RBCs will continue to be monitored to see if/when any new toxicity numbers come out. There are currently 215 chemicals that have enough available risk information to propose RBCs. Updates of RBCs would occur every three years.*

Can someone request that a chemical be added to the list? *Response: Yes, but there will likely be a cutoff. For example, maybe you'd need to get us the info within 6 months of the review period.*

Do the safety (uncertainty) factors used by authoritative bodies to generate RBCs really capture the bulk of the related uncertainties? *Response: Toxicologists think that these bodies provide the best numbers available. Their level of research is very comprehensive, much more than we could do at the state level, and they are the best sources of toxicity information that we've got. We will be adopting already-existing RBCs from these authoritative bodies to populate our list of RBCs.*

One RAC member stated that the available amount of allowable risk in an area for industry should be 50 in 1 million. For an HI value, an HI of 5 should be highest allowable level. Another RAC member's concern was that the emissions from multiple *de minimis* facilities that may be present in an area are not being added in. It's the <u>total</u> risk to community that should be addressed. The agency's stewardship responsibilities require that you track the *de minimis* sources, and not just ignore them once a *de minimis* decision is made. Public health officials here want all the data necessary to prioritize human health. DEQ is a steward. Accurate data collection plus emission factors and materials balancing are needed, and we need data from *de minimis* facilities in order to

correctly evaluate and protect an area. In addition, overall risks in EJ communities are considerably higher, and must be taken into account.

Will past exposures to air toxics be evaluated as part of the Cleaner Air Oregon Program? *Response: No, we are not planning to consider risk related to past exposures to air toxics.*

What about facilities under MACT regulations? In effect, they already have TBACT installed. Agencies need to think about this and explain how they want to consider this within the analysis steps.

Is there any level at which an existing facility would not be issued a permit? *Response: Right now, if a facility has done everything it can to reduce and control their emissions, but is still over an allowable level, then the agencies would require a Risk Reduction Plan or Conditional Risk Level. Would we shut someone down? Probably not. But the team is still discussing this in great detail.*

If a source wants to use some other model beside AERMOD, can they? Modeling works better for some sources than others. If a source disagrees with model and wants to monitor, can they? *Response: A source would have to propose use of a different model to DEQ. For alternative models, we would point people to EPA typical models, and wouldn't just allow use of atypical models. Use of monitoring would fall into Analysis Level 5.*

We want more monitoring. Modeling is not thought to be technically bad, but it's too opaque for people to understand. Monitoring should come before Analysis Level 5.

Do the agencies have the capacity to run the models you're talking about? *Response: Yes.*

Which facilities would go through the risk screening first? *Response: The agencies would start with facilities that appear to pose the highest risk, and facilities in areas that may exceed the area cumulative risk level.*

How will we know which facilities are in cumulative areas? We need to know that ASAP. *Response: Agency modelers will use emissions inventory data to identify areas of potential high risk. Then facilities in those areas will be added to a model and analyzed to see if there are locations where area allowable risk is exceeded. We will also look for any facilities that don't have current air permits (and therefore weren't part of the emissions inventory) that may be present in that area.*

How would the area allowable risk levels work? *Response: If existing facilities are above the 10 in a million facility allowable risk level, they would have to reduce, whether or not they contribute to an area risk exceedance. If the area allowable risk level is exceeded at one or more receptor locations, then new facilities would not be able to site in areas that would impact those receptor locations, and existing facilities would not be able to expand if it would increase impact on those receptor locations.*

I am uneasy with the proposed 80-in-1-million risk level. It seems like the same old thing to me: continuing to use allowable levels that cause adverse health impacts. Obviously, if a facility's risk level is over a limit, then the agencies should tell that facility to reduce its operations if they're over a limit. How will this kind of thing be enforced, and when will our health be put first? *Response: We have never been able to look at air toxics risks like we're planning on doing now. But we don't know*

yet if we're going to shut down a facility that is doing the best they possibly can. Please provide us with all the input you can on this issue.

Will an area with multiple facilities be assigned a lower area allowable risk limit if EJ concerns exist in that area? *Response: I think I hear you saying that there are two areas with the exact same risk, but one has EJ concerns? And we would prioritize the EJ area, kind of a tie-breaker? Please give us comments and proposals on these concerns.*

If a facility is doing everything they can, can't you consider reducing their operations? If reductions get to the point where the facility can't function, then so be it. Is the agency willing to do this? How long would we let a facility persist with their emissions has been discussed before. Please explain what you would do. *Response: Again, we want your ideas and comments on how we should do this.*

So, as proposed, each facility is allowed a top cancer risk of 10 in a million. A cumulative area risk could be over the allowable risk level, so no new emissions units or facilities would be allowed in that area. Still, emissions would be causing potentially unacceptable health risks. How will DEQ deal with this issue?

One RAC member said that if industry does the best it can, then at some point, we'll just have to let some of this go. DEQ would have to go to affected populations and explain why the control of industrial emissions is as good as we can get, and admit that it's not an ideal situation, and explain that maybe new information in the future will help with the situation. Industries can be forced to do better over time.

Before the agency considers shutting down a facility that is at a cancer risk level of 11 in a million, rather than 10 in a million, first think about the health impacts related to the stress of people losing their jobs. Remember what Dave Farrer said about a risk of 80 in a million not even being perceptible in terms of being able to measure actual cancer incidences caused distinctly by that facility within a population of people.

How many Full-Time Equivalent (FTE) positions do the agencies plan on using for this work, including evaluating all this related data? *Response: We probably will spread this work out over time.*

A number of RAC members were very concerned about how Community Engagement Plan work will be funded. Agency staff may not be up to this task; the agencies will need to work with experienced people. The agencies can put clear requirements on Community Engagement Plans. Communities need strong representation that they can trust, including experienced people who will be able to educate the public about the process as a whole. Therefore, some of the points listed for Program Element 22 need to be better articulated. Suggest use of something along the lines of a Memorandum of Understanding, for example. What's missing in the proposed framework right now is a clear delineation and assignment of authority.

One RAC member felt that most of the Community Engagement tasks would be better for the agencies to do, and just have the facilities assist. Everything related to Community Engagement requirements must be better clarified. Agency should lead the process, but we need clarification on the details.

Another RAC member wanted clarification on correspondence needs related to Community Engagement; for example,would need to establish phone call-in line, provide multiple translations of relevant information. Previous concerns voiced by us have not been adequately responded to. You will need to meet with community members and listen to their concerns, especially in Environmental Justice areas. Facilities will need to engage, and stay committed. Agencies should identify and include measurable outcomes that the community can rely upon, to know what we're aiming for and whether we're hitting the mark.

One RAC member appreciated the better communication over this past year from DEQ, said it's been invaluable. But she cautioned agencies not to rely only on emails to disseminate information, because many community members don't have access to computers or the web. In regard to Program Element 23 - Compliance, would the agencies make surprise inspections? *Response: We would likely do some unannounced inspections, but we have found that it's hard to do a good inspection if the facility's environmental staff aren't present, which often happens when doing unannounced inspections.*

One RAC member said that in regard to Program Element 24 – Capacity, other state programs have more staff than DEQ does. Oregon should try to match other states' capabilities and staff numbers. Need to have facility inspectors that don't double as permit writers.

How many FTEs will be needed to run the CAO program? *Response: We are still evaluating this issue internally.*

One RAC member recommended that DEQ work with the Legislature on how to evaluate the success of the Cleaner Air Oregon program. For every dollar spent on reducing emissions, we will experience a concomitant rise in health benefits. The agencies need to find a way to measure this.

ROUNDTABLE WRAP-UP:

Steve Anderson: Praised agencies, emphasized that persistent, bioaccumulative, and toxic chemicals need to be included in all steps of the program.

Ellen Porter: Thanked DEQ for their efforts, but warned them not to lose sight of the subsequent economic impact to communities, especially rural communities. If companies can't compete due to regulatory compliance costs, then there will be a bigger problem because hundreds or thousands of families could be adversely affected due to loss of tax base and jobs.

Al Hooten: Impressed with agency efforts, because it's a difficult project. Excellent start, very good work here. This process has not been used anywhere else in the country. But don't shut facilities down; use their smart people to figure out other options. Improvement in emissions over time should be the goal.

Maura Fahey: Thanked DEQ and OHA for all their work on the framework. She thinks we are on track to get to a health-based program, but we need to include background sources and *de minimis* sources in our evaluation of cumulative risk.

Susan Anderson: The agencies have put Oregon in a leadership position. However, requirements for communications, relationship of a facility with a community: this will cause a hard transition,

especially for rural economies. The agencies need to provide training for these aspects of the program.

Ramona Quinn: Agrees with Maura Fahey. She wants people at the table who can work together to reach these goals.

Patrick Luedtke: Impressed with work the agencies are doing.

Gordon Zimmerman: Agency staff has done excellent job. Must remember that disagreements and complaints are important, and are part of a healthy process.

Jessica Applegate: Appreciates work the agencies have done, and doesn't have much to complain about. But *de minimis* contributions needs to be considered in any evaluation of cumulative area risk. Also, you can't address Environmental Justice concerns if you don't include background in the evaluation of cumulative area risk. There should be a Program Element 26 that specifically addresses enforcement. Can the agencies research what other states are doing with enforcement? Every dollar spent in reduction of emissions gave us back $30 in health benefits.

Lisa Arkin: There are many benefits to investing in cleaner air. With barely $275 per industry per year, we can fund this entire CAO program.

Josh Hall: Praised agencies' work. His biggest concern: one or two large polluters in an area forcing a halt in expansion of smaller facilities in that area due to exceedance of cumulative area risk.

Akash Singh: Environmental justice should be the foundation of this entire CAO program, and not just treated as a bullet point. Reminded agencies that the RAC is here at the governor's prerogative.

Jae Douglas: Her message is not to shut facilities down, but to have a bottom line that we are willing and able to enforce.

Mary Peveto: Thanked the agencies for their efforts. She likes how the Oregon program has been built, and said it is a huge accomplishment. Strong engagement from RAC members has occurred, and has been important. She acknowledged that the regulation of air is very complicated.

Tom Wood: A facility should not be shut down if it is doing everything possible to control its emissions. Also, the area allowable risk proposal is too vague right now, and is not ready for prime time yet.

Laura Seyler: Her facility works to minimize emissions in everything they do, because they are serving their community. But if they incur too much of a regulatory burden, other facilities in other places will take over her facility's production operations.

Diane Rohlman: Said agencies have done a good job of incorporating all the different views and considering them.

<u>REQUEST FOR WRITTEN INPUT FROM COMMITTEE MEMBERS AND PREVIEW OF MAY 2017 MEETING:</u>

Co-chair Powers: Thanked audience for coming. She reminded RAC members to submit their written comments. Thanked the RAC for the respect they show each other, and this type of civil interaction should be happening at every level of government. She thanked DEQ and OHA for their

hard work. May 23, 2017 will be a big day for us, because the draft rules will be coming out.

Co-chair Dingfelder: Thanked the agencies, knows they've got lots of other things on their plates besides CAO. Thanked RAC members for their commitment. She originally didn't think initial compressed schedule would be feasible, but said that we've done well. It would be ideal to look at air toxics in a holistic manner, but we can't do it all, because there aren't enough resources. Framework so far is robust, but can use a few improvements. Impressed with respectfulness shown by RAC members to each other. We want good health related to cleaner air and also to avoid shutting businesses down; we can do both. Our next meeting will be difficult; all of us will have to acknowledge that we're not going to get everything we want, but it's the best we've got. Potential pulling of federal funds is likely to have far-reaching impacts, just so you know. We have to be creative and work together.

Joe Westersund thanked everyone for coming, and explained the next steps in the process. He requested that RAC members provide their written comments within a week. On May 22nd, the RAC members will receive draft rule language and the draft fiscal impact statement by email. There will be an optional afternoon meeting from 1 to 5 pm in Portland on May 23rd, at a location that has not yet been decided. On June 20th, there will be a full-day RAC meeting spent on getting RAC members' input on the draft rules and the draft fiscal.

One RAC member said the one-week time frame for submitting written comments is extremely difficult to meet, given the time needed to first explain all of this complex information to constituents. Joe Westersund said that the rules team would consider comments even if they are received later than 1 week after the meeting.

MEETING ADJOURNED