

Meeting Notes

Tuesday, February 16, 2010
ODOT Region 1 Building
123 NW Flanders Street
Portland, OR



State of Oregon
Department of
Environmental
Quality

**Agency Toxics
Reduction Strategy**
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*DEQ is a leader in
restoring, maintaining and
enhancing the quality of
Oregon's air, land and
water.*

List of Attendees

Kevin Masterson (DEQ), Wendy Wiles (DEQ), Jennifer Wigal (DEQ), Mary Lou Soscia (EPA), Myron Burr (Siltronic Corp), Bruce Hope (DEQ), Chris Jarmer (OFIC), Denise Roth (DEQ), Kathryn Van Natta (NW Pulp and Paper), Sheree Stewart (DEQ), Andy Ginsburg (DEQ), Matt Cusma (Schnitzer) David Livengood (DEQ), Emily Ackland (Association of Oregon Counties), Abby Boudouris (DEQ), Koto Kishida (DEQ), Charlie Landman (DEQ), Palmer Mason (DEQ), Tim Shetek (Americian Chemistry Council), Paul DeLeo (Soap & Detergent Association), Jason Feldman (DHS), Deanna Connors (DHS), Sheree Stewart (DEQ), Cheryl Grabham (DEQ), Neil Mullane (DEQ), Dave Kliewer (City of Portland), Teresa Huntsinger (OEC), Steve Riley (ODA), Chris Schumway, Allison Hensey (OEC)

On Phone: Lisa Arkin (OTA), Charles Lapin, Joan Rothlein (consultant), Peter Ruffier (City of Eugene), Dave Wilkinson (ODA)

List of Handouts and Presentation Notes



StrategyOverview.p
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- Overview presentation
- Discussion Draft: Possible EQC Directive on Toxics Strategy (rule form)
- Draft Template: Toxics Focus List Summary Data Table
- Draft DEQ Toxics Program Review Survey
- Draft Selection Process for Reduction Measures (evaluation criteria)
- Draft Types of Toxics Chemical and Pollutant Reduction Measures

Introductions and agenda review – welcome by Wendy Wiles who is the meeting facilitator.

Overview of toxics strategy goals, objectives, process and connections: Review and overview of strategy and process, as it's been a few months since this group gathered and there are new participants.

Q - Kathryn Van Natta: How do you envision this process working with the Portland air toxics solutions group when that group's rules and process are already set? Trying to figure out the inter-connection you see.

A - Andy Ginsburg: Can enhance some linkages. Without doing anything intentionally, there could be overlap.

Kevin Masterson: No specific reduction recommendations have been identified yet through either initiative. Efforts we are taking with the strategy will contribute but not right now in any coordinated fashion.

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Q – Kathryn Van Natta: So you are saying the air toxics rules will be the frame? Air toxics rules are still followed and benchmarks for Air Quality will be the regulatory framework and you are looking at this group for more. – trying to tease out which lists you will be using. It's a little bit muddled.

A – Kevin M.: In terms of agency-wide Toxics Focus list we have almost all of Air Quality's top 20 toxic pollutants are on the Focus List. Lot of common interests in these chemicals, and DEQ intends for the two efforts to be well-coordinated and inform one another.

Kevin M. highlighted the 7 steps in developing the toxics reduction strategy – will make it available on Internet site for everyone to look at. In midst of these steps and all reduction options are still on the table. We are looking all kinds of efforts including monitoring and data collection actions. Internally, we've had discussions and would like to emphasize the actions that address multiple chemicals and multiple pollutants. Would like to build on existing efforts that work well so we aren't reinventing the wheel. In addition, DEQ will emphasize reducing pollutants at the source whenever possible.

Q – Joan Rothlein - what's happening with greenhouse gasses? Seems there is an opportunity to include on the lists – to integrate them. Are we integrating the lists?

A. Andy G. – yes, to some extent, through the sources and control strategies. The toxics strategy will help with thinking about pathways and which program tools are best to address the toxics and as we get into it, we will find more ways to implement multi pollutant strategies. Some sources and processes emit both toxics and greenhouse gasses.

A – Kevin M. - the greenhouse gas workgroup is going through a similar process, and we'll be coordinating and learning from each other.

Andy G. – We should be looking at reductions for both rather than just one pollutant type.

Q – Kathryn Van Natta - Where are we with the chemical data sheets the department worked on last fall? Have we dropped that concept? How do you see them fitting into the process?

A – Kevin M. - all the data and comments on the data sheets has been captured, but we have come up with a different format for collecting and reporting data.

A – Wendy W. - We will address this in more detail later in the agenda.

Brief Review of DEQ Toxic Chemical Focus List and Process for Developing: We realized as we started prioritizing chemicals that DEQ already had several priority within the agency and with inter-agency efforts. Decided to use the existing lists of which there are 11. The Focus List includes chemicals that are a high priority for a number of programs. The programmatic criteria DEQ used produced the 135 chemicals on the Focus List, and categorizing/grouping brought the list to the 54 we are focusing on.

Q – Kathryn Van Natta: How often to review the list? Who has control of the list? Is it a living document? Who reviews? Just trying to figure out what its parameters are.

A – Kevin M. - We are talking about going back to the EQC every 3 years to propose strategies and changes, including changes to the Focus List. This regular review will give the EQC the opportunity to tell DEQ where we should focus. The goal is to have EQC adopt strategy and take ownership of it. At an internal meeting a week ago we spent time talking about how to evaluate strategy recommendations before putting them together. (*See outcomes at the end for the timeline*).

Proposed EQC Policy Directive on Toxics Reduction Strategy: Kevin M. – we sent out draft directive to Stakeholder Group and it is only a preliminary discussion draft now. It will outline the process that DEQ should follow in developing, implementing and reporting on the toxics strategy. It would also ensure DEQ is accountable to the EQC in that the

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agency back every so often to report on progress and changes. We don't know if this should be in rules, and we aren't sure how the EQC would like to move forward on this type of directive.

Q - Dave Kliewer: Is the outcome a restructuring of DEQ? Where does this go? Is it reflected in a major shift in reconstructing DEQ? Needs more umph like a rule if it's restructuring DEQ. More umph so cross communication is more accountable. Rule depends on how far you want to take it. It should be more than a statement of policy.

A. Kevin M. – we don't want to speculate on any specific outcomes. We want direction from EQC. Doubtful that an outcome will be a wholesale restructuring, but EQC could ask DEQ to conduct a comprehensive assessment of ways to ensure cross-program regulatory functions. That could be a recommendation of the strategy.

Chris Jarmer – rulemaking can be a tricky business – rules may create clarification, but don't want to imply more authority is granted through a process rule. The document doesn't appear to be a typical type of rulemaking. Don't write a rule just clarify the existing authorities.

Allison Hensey – Strongly support DEQ moving the toxics reduction strategy into rule. It makes internal and external expectations more clear. Applaud DEQ for the streamlined approach. Question about third Section #1 – Are there already standards set for Focus List chemicals for the programs referenced in this section or are there gaps?

A. Kevin M. - Definitely gaps. Standards setting is very time consuming process so there may be other ways of establishing reference concentrations that provide guidance in determining when actions would be taken agencies.

Allison H. – would like to see clarification regarding the need to determine benchmarks for toxics on the Focus List.

Q. Steve Riley – what's the really unique thing about this that isn't already ongoing? Is it the cross department /cross division interaction/cross agency?

A. Kevin M. – That is one of the primary objectives of the strategy. There is no mandate for the programs or divisions to work together in rule

Steve R. – maybe you want to highlight this in the directive, if that the real unique thing.

Kevin M.: - This type of cross-program, cross-agency coordination should be one of the cornerstones of the strategy and it is unique.

Q. Kathryn Van Natta: Does the Department see Section #2 as giving it authority to modify permits that doesn't currently have to meet the cross-program goals of the strategy?

A. Kevin M. – one possible outcome of the strategy could be to ensure such authority exists or make changes so the authority is obtained.

Kathryn Van Natta: - NWPPA is gravely concerned with language as written in Section 2 of the draft strategy directive, and would oppose if it did go to rule without further understanding or clarification. There hasn't been a lot of conversation about this. Does the Department view draft rule language giving it the authority to ban certain chemicals and their use in the state?

Kevin M. – no, we would not have the authority to ban chemicals unless the legislature gives us that authority.

Kathryn Van Natta: Section 2 of the draft seems to grant unnecessary authority. Her concerns are about too much assumed authority.

Andy G. – can't grant authority to something not in rule. Rulemaking would be required before new language goes into permits. Maybe we need to tweak the language a little. Intent was not to give ourselves new authority.

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Palmer Mason. – the language is just meant to give direction on strategy development process, and not identify implementation language. Does that help?

Kathryn Van Natta – ok, but it's not clear and it needs to be clarified and edited to give the right appearance, and it currently doesn't have the right appearance.

Lisa Arkin – support the notion that the strategy work needs a clear policy statement in rule, one that institutionalizes goals and expectations.

Myron Burr: Regarding definitions: in the presentation you talk about high priority toxic chemicals, but you need to match this up with priorities outlined in the draft directive. Definitions not clear, too broad. Clearly get the process written into the document so it narrowly focuses on the actual list of chemical you've identified. Try to match up with what you are doing now. In addition, DEQ should evaluate all data – TRI data is limited to those facilities that have to report to the government under that program so it doesn't address many other sources. You should go broader to include ambient monitoring data, data from non point sources and others.

Kevin M. – maybe we should talk about types of data more comprehensively.

Allison H. - cross-program work within DEQ and cross-agency actions are really critical. Do we need a statewide toxic reduction strategy that brings in other agencies to this process?

A. Kevin M. – there is nothing to stop us working on this incrementally. DEQ can't compel other agencies to take certain actions, but we can raise issues that are within the domain of other agencies and have discussions with them about potential actions. It may be a longer term goal to have a statewide, cross-agency strategy.

New Template for Documenting Data and information on Focus List Chemicals:

In the fall, DEQ formed "pollutant category subgroups" - comprised of Stakeholder Group members – to help identify sources and pathways of the Focus List chemicals. In addition, two grad student interns did some research and summarized findings in a narrative template DEQ developed. The comments received from subgroup members and their associates were helpful. To streamline the process for documenting data on chemicals, DEQ decided to change the template for collecting the data from the narrative fact sheet template to a spreadsheet that would more succinctly summarize essential data and information. DEQ wanted to avoid a protracted back and forth discussion with stakeholders about toxicity levels, especially when many studies contradict each other. The new spreadsheet allows the collection of a defined set of data and information, most notably Oregon data. Regarding toxicity, we are using the EPA ECOSAR model. It's a model that estimates toxicity of a chemical, and allows comparison between chemicals on the list. It's also the same model used in DEQ's SB 737 ("P3") process.

Q – Teresa Huntsiger - Will you be describing sources and pathway relationships in addition to the spreadsheet?

A. – Kevin: We will include narrative field in the spreadsheet for sources and pathways information..

Bruce Hope – He has worked up a similar table for 737 and used many reports to populate. There isn't one source to get the data. Mid-March will roll out the draft document for 737. It's partially populated now, but mid-March will see the product.

Q. Myron B. – Looks a bit like risk level assessments. Is that what you are ultimately trying to get at – what's the risk level?

A. Kevin – We don't want to call it that, rather just want to document what data exists and say something about relative toxicity based on the model. .

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Bruce H. – Goal is to approach this from the perspective of inherent toxicity of the chemical. Not able to do risk assessment across the whole state and all chemicals. This allows you to do some prioritization of the chemicals.

Kevin M. - The spreadsheet and ECOSAR model are decision-making tools; will help to prioritize chemicals for future reduction actions.

Myron B. – The main question is whether the data table provides you with anything actionable – will there be enough information on sources and pathways to prioritize actions?

Deanna Conners – One additional dataset that might be useful is human exposure data – are people being exposed to chemicals by air land or water? This data would provide information on a different, but important pathway.

Lisa A. – are you going to include data on the quantities of chemicals are stored or passed through the state?

Kevin M. – yes, we are planning to document storage data from the State Fire Marshal’s Community Right-to-Know reporting database. Documenting a chemical’s presence in the environment provides a better indicator than storage of that chemical’s potential impacts, but storage and usage data can be helpful in the absence of monitoring data. We have talked about it, but don’t have definitive protocol for evaluating these different types of data.

Bruce H. – Our presumption is that if it shows up on Fire Marshal data as stored in Oregon, then it’s intended to be used in Oregon at some point. This data does allow us to identify chemicals that did not show up any place else. At some point there will be some release and some exposure. It’s just an assumption.

Lisa A. – focus of discussion should be on how to collect the data. Concerned about data gaps

Kevin M. – one of the objectives of the spreadsheet is to point out the data gaps for Focus List chemicals.

Kathryn Van Natta – NWPPA has concerns with ECOSAR model, and will send comments.

Kevin M. – we hope to have this spreadsheet populated as much as possible by the next meeting.

Evaluating toxics programs and proposed strategies: (formerly called “gap analysis”)

Program Review Process: - Purpose is to evaluate how existing programs are addressing Focus List toxics. DEQ has developed a survey tool for DEQ staff to identify deficiencies and is working well for these existing toxics programs. We will be pilot testing this survey tool with selected programs.

Q - Plan to work with ODA on pesticide use?

A – Kevin M. – yes, we are working with ODA and other agencies on the inter-agency Water Quality Pesticide Management Team to look at programs in all agencies that address pesticides. David will have some owe hope to have more information on the preliminary results of program reviews for the next meeting.

Kathryn Van Natta – I’m having trouble understanding how the survey interconnects with the draft focus list table. Having trouble understanding how you are going to pull the information together to mesh with the information in the table.

Kevin M. – We plan to look at programs from chemical category standpoint to the extent possible. In some cases, there will be analysis of how individual chemicals are being addressed. One of the first things we will ask is does a particular program address all the chemicals? Using a chemical category approach (e.g., current use pesticides) will help with the

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scope of this effort. We'll then assess if these programs are collecting enough data on these chemicals and environmental performance - are we meeting our goals with respect to these chemicals and categories?

David Livengood – The Focus List data table is separate from the program review template, but they will connect. Next meeting we'll have specific examples.

Kathryn Van Natta – why do we have the stakeholders involved in this effort? what is our role?

Kevin M. - The feedback from stakeholders is helpful. We have attempted to collect data and information from the stakeholder subgroups to inform this process, and the input we received has been useful.

Kathryn Van Natta – It seems you are asking our input on the process that you have already devised and in process of populating, and you would have to go back to change the process and repopulate the data tables based on input. So, are you asking not for review of the science, but only for buy in on the templates? Only purpose for Stakeholders is for review?

Kevin M. – DEQ focused on getting feedback on templates as well as data sources and other substantive aspects of the work DEQ is doing. Doesn't see how the process has changed from the way it was described in earlier meetings.

Kathryn Van Natta – Just hasn't been good communication as you changed the process – not good feedback on what the stakeholders' role is as DEQ has changed the process. Need good information on what you will find valuable and what our role is.

Palmer M. - We may be talking past each other. Stakeholder Group role hasn't changed. We all agree we need good data to look at these chemicals. The new data table provides us with systematic way to look at and gather the data. What's out there and of that data what helps us figure out the right strategy. When we have the data, then it's a question of looking at that information and see what makes sense. Is it implementable? Is it cost effective? Does it follow our directive? The internal program review survey is a way to evaluate what we are doing now.

Q – Teresa H. – Is program review survey intended to gather data about reduction programs taking place outside DEQ? Is there a plan to get it out to others?

A – Kevin M. - yes, if there is a way to use this tool then we will use it to help us evaluate programs in other agencies in partnership with those agencies.

Steve R. - Survey seems a bit cumbersome and had trouble going through it. Linking chemical categories to the survey would be helpful.

Phone comments: none

Evaluation Process for Possible Reduction Options

Kevin: DEQ's internal team came up with 10 draft criteria for evaluating possible toxics reduction options. The challenge is that this process can't really be done in a quantitative way. However, we want to make sure we address each of these in the narrative analysis we do. Any thoughts on making it more structured? Are these the right 10, and are the descriptions clear and accurate?

Dave Kliewer– some overlap on some of these – qualitative analysis will emphasize the overlap.

Kevin – agree.

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Myron B. – suggest that net environmental benefit of a possible action be added to the list. There could be unintended environmental consequences from implementing certain actions, and these should be considered.

Kevin M. – we will look into net benefit as a criterion.

Dave Wilkinson: Implementability criterion: with the Pesticide Stewardship Partnership (PSP) program is an example of a non-regulatory program, and therefore, there is no regulatory burden. Might also want to talk about incentive programs and outreach programs relative to implementability. PSP generates lots of monitoring information.

Mary Lou Soscia – For criteria # 6, include eco system health services

Chris J. – two lists some have “must-do’s” and some “would like to do’s”, so separate them out. They have to be implementable and efficient. Don’t like the term “upstream” in #5 – should be looking at what’s most efficient, attacking the problem in the most effective method. State it clearly.

Categorizing Toxics Reduction Options:

Categorizing reduction options = helping to define the types of strategies that could be pursued. Some reduction options could fall into more than one of the categories we developed. DEQ would like to take the lists of various ideas that were generated at the November workshop and through other internal and external processes and put them into one or more of these 10 categories to better characterize the option.

Dave K. – monitoring and measurement should be on list of administrative actions – these aren’t reduction options. The same comment for #4 and 7. Also may want to include category on by-product trading.

Kevin M.- please send this category idea to us.

Chris J. – land use strategies – what is this category aimed at? Looks like you are talking about restricting land uses in some areas.

Kevin M. – we were thinking of options like promoting low impact development for stormwater pollutant reductions.

Chris J. - need to reconsider the land use category because it seems out of DEQ’s realm.

Next Steps:

- EQC in a couple of days.
- April Stakeholder meeting
- June another EQC update and stakeholder meeting;
- August – aim to have a draft strategy.

Upcoming events with EPA (Mary Lou Soscia)

- Next Thursday (Feb. 24) EPA sponsoring workshop on flame retardants at Ambridge Events Center
 - o Will send link and latest agenda
- 3 brilliant people coming from other places and will hear about local efforts
- Probable draft congressional legislation forthcoming focused on Columbia River Basin toxics reduction.