



Meeting Summary

ADEQ WATER QUALITY DIVISION TRIENNIAL REVIEW 2018 STAKEHOLDER SESSION #2 SUMMARY

DATE: May 10, 2018
TIME: 1-3 p.m. (Session #2)
LOCATION: ADOA North Building, Room 444. 400 W. Congress, Tucson

STAKEHOLDER ATTENDEES (Attached)

ADEQ STAFF

Krista Osterberg
Rik Gay
Jason Sutter
Patti Spindler
Sam Rector
Afaq Abbasova

ADDITIONAL ATTENDEES

Theresa Gunn, GCI
Kelly Cairo, GCI

AGENDA

The complete agenda is available online and includes:

- Review Agenda and Introductions
- Welcome
- Triennial Review Group Topics
- Stakeholder Input
- Next Steps
- Evaluation

REVIEW AGENDA AND INTRODUCTIONS

Meeting facilitator Theresa Gunn greeted attendees and facilitated introductions. Approximately 19 stakeholders participated in the meeting, with 11 attending in person and 8 via WebEx or conference call. Some attendees may not have identified themselves.

WELCOME

Krista Osterberg welcomed the group and noted her appreciation for attendees spending the time to participate in the sessions. She verified that all of the attendees had participated in the morning session and opted to omit the overview and proceed directly to triennial review group topics.

TRIENNIAL REVIEW GROUP TOPICS

ADEQ staff members presented Triennial Review Group Topics as noted below. Highlights of the presentation and comments and questions follow.

Appendix A

Sam Rector presented information on Appendix A.

Ammonia

- The 2013 EPA criteria document includes standards changes for ammonia, and waters where Arizona's Unionid mussel is present will require these different standards. Some areas as more stringent and others as less stringent.
- The standards will not be less protective, we just have better data.
- Ammonia table keys (see 'Ammonia' presentation slide # 11)
 - A&W cold/Unionid – Cold water/Unionid mussel present
 - A&Wc – Cold water
 - A&W Warm/Unionid – Warm water/Unionid mussel present
 - A&Ww – Warm water
 - A&Wedw – Effluent dependent waters
 - M-More stringent
 - S-Same stringent
 - L-Less stringent

Selenium

- The 2016 EPA criteria document now includes fish tissue and water. There is a hierarchy of egg/ovary limits and fish whole body or muscle tissue. Lentic means lakes and ponds, and this standard will be more stringent.
- ADEQ will be responsible for taking any tissue standards and would be prioritized to locations where there is a violation of the water quality standards.

Cadmium

- The 2016 EPA criteria document shows some areas as more stringent and others as less stringent.
- Insects tend to be very susceptible to cadmium.

(Question): 2013 and 2016 EPA data is shown. Can the state react more quickly to update the standards? (Response): EPA provides a secondary assessment on how valid the data can be considered. It's generally prudent to wait for the criteria documents. ADEQ also has backup documents.

(Question): Does ADEQ think about the impact of climate change on mountain streams and the temperature of bodies of water. (Response): We maintain the index on cold and warm waters. If a species moves, we will move the corresponding standards.

Patti Spindler explained that there is a demarcation at approximately the 5,000-foot elevation. This is used to standardize classification of warm and cold waters and allows for consistent standards across the state.

(Question): Could an individual stream above 5,000 feet be a warm water location?
(Response): If the speciation changes, it would be something we would need to look at. Waters can be re-categorize outside of the typical 5,000 foot demarcation line.

Gunn greeted a number of attendees who joined the meeting after introductions were made. She explained the meeting process, opportunities for input and facilitated introductions. In light of the new attendees, the presenters reassessed the need to provide overview information.

Rector reviewed numeric standards, which include standards for human health, aquatic and wildlife, and agriculture.

- Section 303 of the Clean Water Act requires ADEQ to conduct a triennial review of surface water quality standards and, as appropriate, adopt or modify the standards through a rulemaking process, taking into consideration:
 - Public concerns
 - EPA guidance, and
 - New scientific and technical information
- Data used to calculate human health standards includes EPA databases and ATSDR (minimal risk level) data.
- Preliminary standards changes include:
 - 2300+ individual standards in 13 separate uses
 - 260 numeric standard changes
 - 180 more stringent
 - 80 less stringent
 - 50 A&W
 - 210 Human health

Schedule

- May – Stakeholder comments/suggestions
- Mid-May – Begin drafting standards package
- Mid-July – Draft standards and rules available for review
- August – Stakeholder meetings
- September – File NPRM with Secretary of State
- November – Public hearing
- April 2019 – Rules effective

Additional discussion included:

(Question): When does the EPA insert themselves in the process? (Response): EPA officially receives the draft rules after the draft is filed with the Secretary of State. However, informally, ADEQ stays in contact with EPA throughout the process so we can anticipate and answer any questions in advance. EPA will receive the draft rule when it is discussed at the August stakeholder meetings. Comments to be considered prior to drafting rules are due May 17.

(Question): Do comments heard today need to be written up and sent in? (Response): No, this is an informal process and your comments and questions are captured. However, notecards

should be used to jot down your comments to make certain that they are noted exactly as intended.

Section R18-11-109(f) Nutrients

Jason Sutter presented information on nutrients. He explained that in 2009, some rules were approved on the state level but not at the federal level, and that essentially ADEQ must catch up on rule approval.

- In the 2016 Triennial Review, ADEQ limited the applicability of the nutrient standards to the streams 10 listed waters and their perennial tributaries
- The language in this section did not correlate to ADEQ's intent. The revisions reflect applicability of standards.
- In the 2016 Preamble Language, ADEQ proposes to limit the applicability of these standards to discharges that actually impact the surface water. Any tributary of a listed surface water would be included in the nutrient standard if the source discharging to the tributary has the reasonable potential to impact the listed surface water based on consideration of the factors listed.

(Question): What was the purpose behind these standards? (Response): The purpose was to protect these lakes and rivers. Data for ambient water quality from the 1980s was used. The science, and associated data, is being updated and tailored to protect Arizona waters.

(Question): Why would a small creek be named? (Response): The creeks were listed in the past. We do know that all of these streams listed have downstream lakes. Nutrient standards are based on protecting purification of downstream lakes.

(Question): Does ADEQ have funding to do the testing? (Response): Yes, we have a contractor collecting more than 90 samples by June.

(Comment): I am interested in the stream characteristics in the proposed language. (Response): In the past, we have worked with the permittee for sampling. Coordination would need to occur with AZPDES permit representatives.

(Question): If there are no numeric criteria for nutrients, how will you calculate a downstream effect? (Response): An evaluation would be used to determine whether the standards in the permit would be applied. These are additional standards applied to the 10 listed streams.

STAKEHOLDER INPUT

Gunn posed the questions:

- What are the **values**, the overarching benefit, that you want to see reflected in this rulemaking?
- What **criteria** do you suggest to implement and realize those values?

Osterberg suggested that attendees think of the rule as a tool to protect Arizona water. Suggestions included:

- Clean water

- People over profit
- Whoever uses the water should return water at least as good of a condition as prior to its use

She noted that this process reflects an opportunity to influence what goes on paper.

(Comment): EPA makes changes to numerical levels at the federal level. We need to figure out what is clean for Arizona.

(Comment): I think that the Rosemont mine poses a threat to water. HudBay really wants a mine there and has proposed start dates. (Response): I don't believe they have federal permits yet. Additionally, a permit would be required through ADEQ for any water discharge.

(Comment): It seems wrong that if EPA does not agree with an Arizona-proposed change they can choose not to accept it. (Response): This is why it's important to show our work. State language cannot be more stringent than at the federal level. This means more stringent criteria can be considered. 180 criteria are becoming more stringent and 80 less.

(Question): What is the status of the mine in Florence? (Response): We don't know, but can find out if they have come in for permits. We can follow up offline after the meeting.

(Question): I have questions about the definitions in R18-11-101. In CWA, 11, many references include "as amended." (Response): Yes, there is a legal issue in this area.

(Question): In R18-11-101 (17), effluent dependent water, why is this restricted to ephemeral waters, not intermittent? (Response): Intermittent waters are treated as perennial, and therefore are subject to more stringent rules.

(Question): What about the stretch of the San Pedro that has changed in flow? (Response): This would be assigned in Appendix B. I assume this would be a warm water stream with associated warm water standards. If effluent is discharged to surface water this would become a legal issue and become part of the AZPDES permit. If we were to change the designated uses, it would have to be changed through the water quality standards.

(Question): Who defines flow regime? (Response): ADEQ defines flow regime. (Comment): Intermittent flow is in response to ground water.

(Question): What about the issue of water quality along the Arizona/Mexico border? (Response): ADEQ has a border team housed at this Southern Regional Office which works with our partners in Mexico and the EPA border team. Among the considerations, these teams must determine which agency is responsible for and can fund solutions to issues. ADEQ may not use funds in Mexico.

(Comment): I heard that the lithium content is higher in Bisbee than the rest of Arizona.
(Response): We don't know the answer to this question but could ask outside of the meeting. Also, drinking water reports should be available online.

NEXT STEPS

Next steps include the OAW, effluent dependent water and antidegradation session from 3-5 p.m.

EVALUATION

The evaluation was available at the meeting and online through May 12. However, no responses were received.

STAKEHOLDER ATTENDEES (IN PERSON AND BY PHONE) AND ORGANIZATION

Kathy Arnold	Rosemont Copper Company
Lauren Dempsey	U. S. Air Force
Tricia Gerrodette	(did not provide)
Nicole Gillett	Tucson Audubon Society
Ned Hall	Freeport-McMoran
Michael Hanus	Save the Scenic Santa Ritas
Jason James	NACOG
Marie Light	PDEA
Pearl Mast	Cascabel Conservation Association
Kristie Mendoza	Tucson Water Department
Mark Murphy	(did not provide)
Elna Otter	Sierra Club
Lynn Pedros	(did not provide)
Scott Renfrow	City of Tucson
Natalia Smith	SRP
Vashti Supplee	(did not provide)
Tom Swenson-Healey	(did not provide)
Jennifer Varin	U. S. Forest Service
Selso Villegas	Tohono O'odham Nation
Kathy Arnold	Rosemont Copper Company
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