

## **HB 894 Stakeholder Meeting #3**

### **May 26, 2016**

#### ***Welcoming and Introductory Remarks – Rebecca Sadosky***

The meeting began with a short presentation to welcome participants and to set expectations for meeting objectives. It was recognized that feedback from previous meetings included requests for more time devoted to group discussion. Participants were informed that today's agenda would provide many opportunities for discussion. The key objective stated for this meeting was the introduction of draft rule language. Both large and small group discussion were to be utilized to identify and revise potentially problematic rule language.

#### ***Review of Progress and Draft Rule Language Introduction – Jay Frick***

The purpose of the first segment of the meeting was to review and discuss relevant progress since the second stakeholder meeting. Presentation provided an overview of current initiatives being undertaken by the program, the source water protection legislation, and the rationale behind the draft rule language.

#### Comments/Questions:

- Is there a listing of the TAC members?
- **Action Item:** Provide list of TAC members
- Will there be additional legislation?
- Section .1305: Percentages based on current susceptibility ratings. If those ratings change, then will the percentages may change?
- WS-IV watershed: To identify potential threats, will distance be factored in for intakes on major waterways?
- Will emergency management be helping to identify potential threats?
- Response: Emergency management will provide data for Tier II sites.

#### ***Large Group Discussion of Draft Rule Language – Rebecca Sadosky***

Presentation provided an overview of the discussion objectives, methods, and detailed draft rule language. Each rule section was presented and was followed by 5 minutes of open group discussion. Following the discussion, the group voted via electronic clickers and real time results were evaluated. If greater than 30% of the participants were not satisfied with the proposed rule language, then the rule section was noted and tabled for further discussion in small groups after the break. The following comments were received during the large group discussion:

#### Comments/Questions:

##### **Section .1305b – Schedule**

*David Czerr* – What to do with municipalities that are purchasers?

**Response:** Must pull and treat water to have rule be applicable

*Eric Hatcher* – Already have groundwater component to our system. How would that affect the dates with this alternate source that is not covered under legislation

*Sydney Miller* – Existing system that will bring new source online soon.

**Response:** Will be captured in 3-year update.

*Debbie Maner* – well head protection is on a 5-year schedule. Why is this on a 3-year schedule?

**Response:** Department tries to update information every three years. Also works with small DEQ staff. Wanted a shorter schedule to allow for maintaining freshness.

*Julie Ventaloro* – Is source defined anywhere? I.e. reservoir with two intakes, is that one or two source.

**Response:** Will follow up

*Chad Ham* – What is the schedule for adopting rule. If it was adopted in December you would have a year, but if adopted in July may be different. How much time will be given for first group from adoption date.

**Response:** 1 year.

### **Section .1305c – SWPP Elements**

#### **Section .1305.c.1**

*Chad Ham* – Have we identified what a PCS is? Is it defined in the rules?

Response: Currently not on defined list. PCSs already identified.

*Sarah Collins* – Also concerned with the definition of PCS.

Action Item: Define PCS

*Debbie Maner* - Is method of prioritization going to be similar to SWAP or will method be provided.

Response: Will be included in guidance. Every system will be unique however.

*Anne Coan* – the word buffer has specific connotation- need to say “existence of” buffer. Stream bank, does that mean perennial stream? Should say that.

*Julie Ventaloro* – Which map do you use to determine if the stream is perennial? USGS map may show every stream as perennial.

*Chad Ham* – Has DEQ already identified the PCSs that will be used unless municipality that comes up with their own.

*Mike Richardson* – Do you need to define the method you used to prioritize?

*Debbie Maner* – Can there be a template to assist with identifying.

*Julie Ventaloro* – Watershed V does not have a critical area. There is no associated protected watershed so you may have to say within ½ mile of intake, etc. Critical Area may use definition in 2b rules.

**Section .1305.c.2**

*Sydney Miller*– what is frequency of update for emergency management plan.

**Response** – every time there is an update to water system.

*Chad Ham* – Guidance has a tendency to become policy and becomes unwritten standard. Uneasy with some language including evaluating each source and treatability studies. If there is an issue big enough to affect the system and a release, then they will just shut system down. Having to evaluate treatability seems unnecessary. Guidance should be a separate discussion from discussion of rule.

*Debbie Maner* – Section 2.ii. – Water shortages is addressed in drought management plan. Never addressed water shortage in source water protection plans. Won't it be redundant with water shortage regulations.

**Response** – it is lifted from emergency plan rules. This rule doesn't look at response to shortage, instead looks at what may cause the shortage, i.e. power outages, terrorism, weather events. Need to think about what things can impact the reservoir.

*Chad Ham* – agrees with point that it deals with response. They have two sources, if one is impacted will switch to other.

*David Czerr* – Many things can cause lack of availability of water. Rule should focus on potential contaminants.

**Response:** This is any impact.

*Sarah Collins* – Believes the intention of the statute was to focus on potential contaminants.

*David Czerr* – Section 2.vi – This is a different animal than the intent to focus on potential contaminants.

*Peter Raabe* – Emergency management plans already exist so is it a big issue if it reduces the amount of work by using same plan?

*Sarah Collins* – as long as there are not additional requirements.

*Anne Coan* – would like to keep the emergency management plan requirements separate from these rules so there will not be dual authority. Can be enforced under two rules.

**Response** – These are the emergency management plans that are within PWS.

**Section 1305.c.3.**

*Anne Coan* – When talking about reducing demand with conservation measures do you mean regulatory measures.

**Response** – Similar to conservation plans. Assessing ability to do that and how quickly it can be implemented.

*David Czerr* – Is goal more of a self-realization and DEQ will just review.

**Response** – correct. i.e. PWS will not tell system that they have to interconnect

*Ruth Rouse* – Do we need to do formal analysis.

**Response** – we would accept estimates.

**Section 1305.c.4.**

*Sydney Miller* – What constitutes authorized or unauthorized, system just cares if there was a release. System may not know when the release is authorized or unauthorized.

**Response** – May be better as unpermitted or permitted.

*Julie Ventaloro* – NPDES ponds with stormwater permit, pond will overflow during storm. Would that be considered an unpermitted activity.

**Response** – Can be up to negotiations with water system and PCS.

*Anne* – Basically saying that system needs to get formal agreement with PCSs which may be an issue.

**Response** – We will be discussing the guidance separately and will focus on the rule language. The formal agreement is the ideal but not required.

*Anne Coan* – Concerned that stakeholders don't have as much input in guidance.

**Response** – can circulate the guidance.

*Sarah Collins* – As beneficial a MOA can be, compared to the burden, it is not realistic.

*Chad Ham* – What you are looking for is a way to show that you have reached out to the PCS and had a conversation. There is no regulatory requirement that the PCS call the system. With permitted v. unpermitted, a SSO is an unpermitted discharge, but you can have a minor excursion of the permit that you don't need notice. Needs to be a release that has a potential to have an impact that can't be treated through normal means.

*Adam Ryan* – Emergency management would like to discuss with PWS since it affects emergency management.

*Chad Ham* – Already reporting requirements in place for PCSs to call Emergency response or state, seems like we adding another layer of numbers. Should be some way that when the call is made to the emergency management folks than there is an automatic notification to water system.

**Response** – not all PCSs have requirement to notify emergency management.

**Chad response** – if it's a significant release you are required to report. We are trying to capture the significant releases.

**Response** – Two prongs, 1 – to make sure that the system receives immediate notification, 2 – increase the knowledge of the PCS that there is an intake downstream.

*Eric Hatcher* – Should be able to call emergency management and receive immediate notification. We don't have authority of jurisdiction over upstream PCS. Intent of legislation was not to require system to complete things out of there control. Much better is state is notified and then system is notified. System can establish dialogue but cannot compel PCS to notify.

#### **Section .1305.c.5.**

*Sarah Collins* – The rule should say “shall, if applicable”

*David Czerr* – There are not many feasible options that get to the heart of potential releases, i.e. the gas station dumping. Doesn't feel like it does much. Can come up with things to satisfy requirement but does not seem to satisfy the intent.

*Chad Ham* – Requirement is if you've done them than you have to document and seems like more paperwork.

*Sarah Collins* – make sure it's clear that it's optional.

#### **Section .1305.c.6.**

*Eric Hatcher* – Most of this stuff is easy as we are already doing it. Does this strategy include sending to the PCSs?

**Response** – no, does not change distribution of CCR.

*Chad Ham* – what is the intent?

**Response** – make water consumers aware of the process.

*David Czerr* – The plan will not be available for public consumption once they are informed that the system is complying.

**Response** – anticipate one additional line in CCR

*Anne Coan* – By saying publication of proactive activities that's a rule so it's not one line or being able to send someone to website.

*David Czerr* – concurs. How to go about publishing since it will not be a brief statement.

### **Section .1305.d.1.2**

*Sydney Miller* – Why do we have city council certify SWPP. Does not appear to add value but does add time. Would rather have approval by Director. It's fine that they should know about the plan, but they shouldn't have to certify.

*David Czerr* – Having council approve creates a sensitivity issue since the plan would have to be before them and potentially public.

*Sydney Miller* – If there is flexibility within the rule then it's fine.

### **Section .1305.d.3.**

*Anne Coan* – Is there a difference between minor and major revisions. The certification should be for only major revisions.

**Response** – need to link the revision to the schedule in b to be clear.

### ***Small Group Discussion Comments***

Section .1305 c. 1.

- Add “that the utility has deemed a viability threat”
- Utility prioritizes PCSs

Section .1305 c. 2.

- Contingency Strategy required elements to respond to contamination
  - Relationship to drinking water emergency response plan
- ii. Specific to PCS events – eliminate natural
- iii. Allow non-individual PCS responses
- v. Reference shortage response plan
- vi. Delete
- vii. irrelevant remove

Section .1305 c. 4.

- Utility contacts the PCSs “of concern” as determined by utility
- PCSs need incentive/penalty
- Strike unauthorized
- Concern of PCS backlash when outreach received
- Communication with PCSs

Section .1305 c. 6.

- Public awareness/reporting re: SWPP

Section .1305 d. 2 and 3.

- Submittal and review requirements
- Clarify language prefer not to have to go to elected body
- City council are not water professionals
  - Suggest city manager/general manager certify that they have briefed the governing council

***Concluding Remarks – Jay Frick***

Participants were reminded that they can continue to submit written comments, suggestion and ideas to the agency after today’s meeting has concluded. Participants were informed that division staff would integrate recommendations from the stakeholder team and then schedule legal review of the refined draft rule language.