



Water Quality Work Group Meeting

September 5, 20224

Location: Virtual Meeting via Zoom

Minutes

Attendees: Marco Alebus (NJDEP), Rob Buchanan (CAC), Lisa Congiu (NJDEP), Michael Dulong (Riverkeeper), Jason Fagel (NYSDEC), Michael Flood (EPA), Biswarup (Roop) Guha (NJDEP, NJ co-chair), Wayne Jackson (EPA), Tom Lausten (NJHDG/PVSC), Keith Mahoney (NYCDEP), Shirin Mardani (NYCDEP), Ryan Minor (NJDEP), Rosella O'Connor (EPA), Gregory O'Mullan (Queens College CUNY, NY co-chair), Rosana Pedra Nobre (HRF/HEP), Rob Pirani (HRF/HEP), Evelyn Powers (IEC), Emily Ruby (Riverkeeper), Candance Schermerhorn (NYSDEC), Dan Shapley (Riverkeeper), Hugh Sullivan (EPA), Shino Tanikawa (NYC SWCD), Ryan Van Manen (EPA), Judith Weis (Rutgers, STAC)

Next Meeting: Thursday, December 5th at 10am via Zoom

1. Overview of Agenda, Introductions, Partner Updates, and Minutes Approval

Roop Guha opened the meeting and provided an overview of the agenda. May minutes were introduced and motioned for approval by Greg O'Mullan and seconded by Jason Fagel. The following updates were shared:

- Judy Weis shared a paperback book in which she wrote. It's the second edition of "Marine Pollution: What Everyone Needs to Know." This book is written not for scientists, but for the public and in the form of Q&A.
- Shino Tanikawa shared that the NYC Water and Soil Conservation District will be hosting a Green Infrastructure Bus Tour that will be going to Philly this year. Once details are available, she will share them with this group.
- HEP Conference will be held on November 12th at the NYU Kimmel Center – additional information will be posted soon including registration here: <https://www.hudsonriver.org/article/2024-hep-annual-conference/>

Action: May 2024 minutes were approved.

2. Probabilistic Monitoring and the NY/NJ Harbor & Estuary Program

Hugh Sullivan shared an overview of EPA's program, and while there is no specific climate or DEI efforts in the program, the work being done can be used to support discussions on both topics. Through the National Aquatic Resource Surveys program there are four surveys that are conducted to assess changes over time in the nation's water and rank stressors between conditions and indicators of stress. Hugh illustrated the scalable drawing of sites across streams in the nation and can focus on specific watersheds such as the Harbor Estuary. The estuary falls into the program's Northeast Region and is conducted on a

cycle. When thinking about DEI and climate change, the indicators that would be useful in how different waterbodies in EJ areas may include the eutrophication conditions, sediment quality (looks at 59 chemicals, metals, PCBs, and other contaminant data), and the biological condition (looks at the benthic index) which is used to estimate biological condition to understand what is going on in biological health. For DEI focus, human health indicators will be key which you can look at fish filet contaminations for mercury and starting in 2025 a new effort will be established to look at the whole filet for 40-PFAS that can be detected and measured, Enterococci in qPCR, and microcystins.

Hugh highlighted how the program considered developing a statistical monitoring program where the research question and objectives would inform the target population, indicators, and the design/frequency of the program. Hugh provided an overview of interactive dashboards and online reports that are available via EPA's National Coastal Condition Assessment (NCCA) survey. Recognizing that these dashboards are statistical heavy, EPA has included an interpreting result bars and plain language to guide you to see the results and compare against the nation. Hugh highlighted that the National Estuary Programs, like HEP, are experts at telling the story of the health of the estuary. Where the NCCA program staff can assist is in providing support to sharing dashboards, scripts, and story maps. Hugh shared a number of resources on his last slide of his presentation and encourages everyone to take a look at their programs, protocols, and training programs (https://www.youtube.com/playlist?list=PL7F4YD5AdOGLUYcdX6R7yK_FVEw_-jIRz). Dan Shapley asked whether NYS has a lower density of sampling sites than other states in the region? Roop Guha indicated that NJDEP has been coordinating with Hugh and others at the Office of Water which resulted in an intensification of the NCCA survey for the Harbor Estuary. Additional sites were added in some of the NJ and shared waters of the Harbor Estuary.

3. Advanced Notice of Proposed Rule Making - Triennial Review Process

Jason Fagel provided an overview of the triennial review of water quality standards that requires the state to collect public comments every three years. NYSDEC has heard that the public wants DEC to have more robust public engagement and so they are working upfront to get feedback before starting the standard process to meet the needs of the public. This allows for more efficient collection of information and requests for WQS updates to be integrated into the rulemaking process. There is currently a 180-day solicitation period when comments are due on November 4th.

Jason was provided with a few questions that Rosana Pedra Nobre had shared with him based on feedback received from members of this work group. Regarding state-to-state coordination, while there are discussions between Jason and Roop Guha of the NJDEP, the common denominator is USEPA Region 2 to coordinate and approve what both states are doing. NYSDEC will focus on the needs of its state residents and if that also benefits residents of New Jersey that's great, but not the focus. The list of waterbodies being considered for the Wet Weather designation is still to be determined however a Use Attainability Analysis or a water quality variance will be needed. Another question was on the status of Stand-Up Paddle (SUP) and based on USEPA's July 2024 study, there were no ingestion rates for SUP, but there are questions whether certain activities fall under primary or secondary recreational criteria. For now, the descriptions of primary and secondary recreational activity will stay the same and a decision

cannot be made on where SUP activities will fall under. Jason provided an overview regarding vibrio, VHS, and other contaminants of emerging concern.

A discussion was held around contaminants of emerging concern (CEC), which are difficult and have a wide range of threats. NYSDEC looks towards EPA agencies to follow guidance values as they become available such as PFAS. The state needs to understand the gap between what the toxicity level is and what can be measured, which is an overall challenge for all CECs, including microplastics. Judy Weis raised the question about how much time is needed before CECs are no longer emerging. For example, we have known about bromide chemicals for some decades in addition to pharmaceutical impacts. Jason indicated that brominated compounds are in flame retardants and while we know that it is a problem, the state is challenged with getting towards a threshold and there is limited data gathering for these issues given how expensive monitoring costs. While that's not an excuse, we do have to consider how the state utilizes its limited funds in monitoring programs. Pharmaceuticals are also a similar challenge. Ryan Van Manen shared, regarding 6PPD, questions regarding the impact on other salmonids other than coho salmon, and sensitivities in trout species are being studied. One such study that included rainbow and brook trout, both found in NYS, is available here: https://www.newswise.com/pdf_docs/164582402962361_030222TiresandFish.pdf.

Jason continued discussing the Triennial Rulemaking process, indicating that DEC is at the first phase in collecting data and input from the public. They expect to work on definitions and WQ derivation procedures (in regulation, updating how input factors are calculated for standards) that will occur 2024/2025. The next phase will be WQS criteria updates in late 2025 and pending on anything that needs to be cleaned up or readdress a phase 3 would occur. Shino Tanikawa asked how long do we wait until we have enough data but what can we do to generate that data? How can HEP assist with these data gaps? Jason indicated that the Division of Water works with the Division of Materials Management that deals with products and inventories. Typically, the data starts with academia, and unfortunately, DEC needs studies on one compound to one species for EPA to process it and develop criteria recommendations for the states to adopt. Human health is a similar process. Greg O'Mullan asked whether comments on where those data gaps are and where perhaps DEC can drive some of the monitoring would be helpful at this stage. Jason indicated yes. Evelyn Powers asked whether there is a particular time period DEC is looking for data for, or is that information in the data submission guidelines? Greg added that we're not just looking for raw data or new data, but looking for data that can support the argument? Jason indicated the last 10 years of data would be helpful. If comments are on these CEC, to support the argument, it could be a reference to non-local data.

Greg noted the inconsistencies of pathogens in shallow water versus the parameters being analyzed and asked whether comments to FIBs on sediment interactions would be appropriate? Jason indicated that discharge reports are submitted in 30 days, which is the allowable time frame. DEC has a 30-day averaging period though if there is data that argues a shorter time, we are interested in learning that. Michael Dulong noted the number of changes DEC is seeking and asked whether DEC will be able to comply with all that EPA has put out there in this one go around? Jason agreed that it is a lot, and the reason for the phased approach. While the triennial review doesn't require adoption for everything, DEC does need to review and consider whether these changes apply to the state.



Action: Written statements are due November 4th to DEC, additional information can be found on the DEC website here: <https://dec.ny.gov/environmental-protection/water/water-quality/standards-classifications/ANPRM-triennial-review-of-water-quality-standards>

4. Action Agenda Revision Discussion

Rosana Pedra Nobre provided a brief overview of the HEP Action Agenda process and shared a preview of draft objectives and actions for water quality. The draft shared is a synthesis from the Water Quality Work Group Meetings, one-on-one partner meetings, estuary-wide listening sessions which were held by various partners to engage residents, online surveys, and other work group and committee meetings. Rosana shared four objectives and ten actions ranging from integrated actions around climate change, monitoring, and shared standards. Members are encouraged to review these actions and presentations to be shared via email and provide further reflections and comments to Rosana.

Action: Comment on draft objectives and actions by September 25th.