

## Draft Minutes

### NYSDEC/NJDEP/EPA New York-New Jersey Harbor TMDL Oversight Meeting August 13, 2008

#### **Participants:**

Kevin Bricke, Jim Olander, Wayne Jackson, Dore LaPosta, Bob Nyman, Jeff Gratz, Phil DeGaetano, Phil O'Brien, Dick Draper, Kerry Kirk Pflugh, Shadab Ahmad, Charlie Dujardin.

#### **Phone Participants:**

Stan Cache, Dan Zeppenfeld, Barbara Hirst, Deb Hammond, Jeff Reading, Larry Baier.

The meeting was convened at 10:00 at 290 Broadway in NYC and chaired by Kevin Bricke. The main purpose of the meeting was to seek agreement on four issues critical to the pathogens TMDL work.

#### **Pathogens**

The meeting began with a presentation by Charlie Dujardin of HydroQual on the long-term analysis work to assist in selecting a critical condition. See attached presentation. After the presentation, discussion focused on the four issues listed below. See attachment of positions of the TMDL oversight group representatives.

- **Issue:** Agreement to upgrade the classifications of all open waters of the Harbor for bathing and/or upgrade the criteria to support bathing wherever attainable.
- **Issue:** Agreement on the appropriate averaging period (30-day rolling average, monthly, seasonal, etc.) for the geometric mean component of the enterococci criteria for bathing.
- **Issue:** Agreement on the definition of a "critical condition" for TMDL development to ensure that on average the underlying water quality standard to protect bathing will be attained.
- **Issue:** Agreement on the use of the single sample maximum (SSM) component of the enterococci criteria as a check of the projected potential need for beach notifications at designated beaches. In addition, consideration of the use of similar checks using the alternative SSMs from the 1986 criteria for Harbor waters not designated for bathing for which the highest use may be moderate, light and/or infrequent full body contact recreation.

In addition to the positions laid out in the attachment, a few additional items were discussed related to pathogens:

- Mr. Bricke said that the pathogens load response matrix created by HydroQual will provide additional insight. **Jim Olander will distribute the matrix and will set up a webinar or video conference for the oversight group to go over it.**
- It was noted that by October 2012, EPA-HQ will have a new standard for pathogens and will likely be based on a single day number.
- NJDEP would like to assess whether the classification of an area of Raritan Bay to the west of Sandy Hook could be upgraded for shellfishing. **Jim Olander will discuss with NJDEP their specific needs for this assessment.** It is likely that the model outputs from HydroQual already exist and it would be a matter of assembling the information. **Dick Draper will look into what shellfish restoration goals NYSDEC has.**

**As agreed, a meeting will be set with higher level managers to discuss the issues.** For EPA, the likely participants are Walter Mugdan and Barbara Finazzo. For NJDEP, the contact is Larry Baier but the participant may be Mark Mauriello or Nancy Wittenberg. For NYSDEC, Dick Draper will be the contact but the participant will be Jim Tierney.

### Nutrients

Bob Nyman gave a brief update on the status of the nutrients work. HydroQual has completed the first of the sub-regional scenario runs (Hackensack) and has provided a draft technical memo in preparation for the Hackensack workshop. According to the analysis, Limit of Technology nitrogen removal alone does not bring dissolved oxygen levels up enough to meet current standards. EPA has requested a meeting with NJDEP to discuss possible options related to this as well as to clarify discussions with Bergen County Utilities Authority. NJDEP staff will also be briefing their Commissioner on these matters the week of August 18.

### Toxics

A kickoff workshop is being organized for the three toxics TMDL subcommittees. The purpose of the workshop is coordinate efforts; make sure everyone is familiar with the CARP matrix and options for how the TMDLs may be implemented, and to possibly look for efficiencies among the subcommittees as to which contaminants are being examined. The workshop will likely take place in late September. **There was a request that each state ensure they are adequately represented at the workshop.**

Wayne Jackson provided an update on the BAF (Bioaccumulation Factor) proposal that was prepared by HydroQual. The purpose of the work is to allow the oversight group to more effectively utilize the disparate standards that currently exist for some contaminants within the harbor. The proposal has been reviewed by EPAHQ and will be distributed to the states shortly.

The meeting was then adjourned.

**Pathogens TMDL Issues**  
**Positions of the TMDL Oversight Group Representatives**  
(August 2008)

**Upgrade of Classifications and/or Criteria**

- The EPA, NJDEP and NYSDEC representatives agreed that it is appropriate to upgrade the classifications of all open waters of the Harbor for bathing and/or upgrade the criteria to support bathing wherever attainable.
- The appropriate criterion to support bathing in marine waters is a geometric mean of 35 enterococci/100ml.

**Averaging Period for the Enterococci Criterion**

- The EPA and NJDEP representatives agreed that the averaging period for the enterococci criterion should be the 30 day geometric mean.
- The NYSDEC representative indicated that the averaging period for the enterococci criterion should be the bathing season (May 15 – September 15).

**Critical Conditions**

- The EPA and NJDEP representatives agreed that the TMDLs for pathogens should be developed under critical conditions.
- A number of options for critical conditions were discussed. The NJDEP representative expressed a preliminary view that a three year recurrence interval for exceedance of the maximum 30-day geometric mean criterion might be appropriate. The EPA representative indicated that a more informed view of the appropriate recurrence interval (in the range of three to ten years) would be possible after HydroQual completes the component analysis.
- The NYSDEC representative indicated that the TMDLs should be developed under average bathing season conditions (1988) rather than under critical conditions.

**Single Sample Maximum**

- The EPA representative indicated that the control program designed to meet the maximum 30 day geometric mean criterion should be checked to determine how many events above the single sample maximum notification value of 104 enterococci/100ml would occur at designated bathing beaches in the Harbor. An unacceptably high number of events would trigger consideration of a tighter control program.
- The NJDEP and NYSDEC representatives agreed that the single sample maximum value should play no role in the selection of a control program.