

Draft  X   
Approved as presented \_\_\_\_\_  
Approved with amendments \_\_\_\_\_

## Notes from the three hundred and fifty-ninth regular meeting of the Oregon Environmental Quality Commission

December 9 and 10, 2010

DEQ headquarters: 811 SW 6th Avenue, Portland, 10th floor, room EQC-A

### Thursday, December 9

*Chair Blosser convened the meeting at 8:06 a.m.*

*Members present:* Chair Bill Blosser, Vice-chair Ken Williamson, Commissioner Jane O'Keeffe, Commissioner Donald Dodson and Commissioner Judy Uherbelau

#### **A. Action item: Review and approval of the minutes from the October 20-22, 2010, regular meeting**

The commission reviewed the draft minutes from the October 20-22, 2010, meeting and made amendments for a typographical error on page seven and rewording of a confusing paragraph on page 11.

**Motion:** Adopt with corrections as noted. The last paragraph on page 11 is not approved at this time, and will be submitted for approval after corrections at the February 2011 commission meeting.

**Move:** Commissioner Uherbelau

**Second:** Commissioner Dodson


*The motion passed unanimously*

 [Listen to audio MP3 \(5 minutes\)](#)

#### **B. Informational item: Umatilla update**

*Presenters: Joni Hammond, deputy director, and Steve Potts, chemical demilitarization program administrator*

Joni Hammond introduced the item and Steve Potts presented an update on the activities at the Umatilla Chemical Agent Disposal Facility and chemical demilitarization depot. Potts explained that the facility is about halfway through the destruction and disposal process, and should complete the process by December 2011, with some shutdown activities after that date.


 [Listen to audio MP3 \(10 minutes\)](#)

#### **C. Informational item: Water quality human health criteria standards development**

*Presenters: Neil Mullane, Water Quality Division administrator, Gene Foster, watershed program manager, and Jennifer Wigal, standards program manager*



Wigal noted that DEQ received significant and substantive comments on the revisions for arsenic, and is working with EPA to evaluate the science for the rulemaking. She noted that DEQ will revise the amendments for arsenic and return for commission action in spring 2011.

 [Listen to audio](#) MP3 (15 minutes)

### **J. Informational item: Graywater rules development**

*Presenters: Neil Mullane, Water Quality Division administrator, Ron Doughten, biosolids and water reuse program coordinator, and Lynne Paretchan, graywater advisory committee chair*

Neil Mullane introduced Ron Doughten who gave the overview. Doughten discussed the legislative direction in House Bill 2080 that legalized the use of graywater for beneficial purposes and authorized EQC to create rules for graywater.

Lynne Paretchan presented the advisory committee's recommendations for use, treatment and permitting. She discussed requirements that must be met for in the proposed permits, and described limitations or restrictions of the permits. Doughten described the next steps of the rulemaking process, and the plan to bring rules for commission action in August 2011 after a full public outreach period. He noted that rule adoption would start the implementation phase, and homeowners would be able to apply for permits in 2012.

Commissioner O'Keeffe asked how many permits DEQ expects to issue through the program, and Doughten noted that DEQ has researched that question and expects to see a slow start to the program. He explained that other states with graywater permit programs have up to 13 percent of their homes on graywater systems. Chair Blosser noted the invaluable service of the advisory committee in researching the rule material.

 [Listen to audio](#) MP3 (40 minutes)

### **K. Action item: Regional haze rules and PGE Boardman best available retrofit technology rules**

*Presenters: Andy Ginsburg, Air Quality Division administrator, Mark Fisher, senior permit writer, and Brian Finneran, planner*

Andy Ginsburg introduced the item and Brian Finneran presented an overview and background information on regional haze, and described the provisions and timeline of the rules and best available retrofit technology provisions for PGE's coal-fired power plant in Boardman. Finneran summarized the 2009 regional haze and BART rules.

Mark Fisher explained DEQ's proposed emission reduction options with closure dates between 2016 and 2020. Fisher noted that DEQ and EQC do not have authority to force a plant to close, but that EQC can set rules for emission standards and EPA must approve the rules through the State Implementation Plan, which would then incorporate closure dates into federal law. He described the pollution reductions and costs associated with each of the options. Fisher explained that there are other issues associated with the PGE Boardman plant, including federal hazardous air pollutant rules in development, lawsuits involving this facility and a current EPA notice of violation and subsequent enforcement action. He noted that any of these issues could affect PGE's decision on closure dates and may result in an earlier closure date than the one recommended by DEQ in this action item.

Finneran described the public comment period, and noted that over 350 people attended seven public hearings across the state and DEQ received over 8,000 comments, many of which were form letters, during the two public comment periods. Finneran described the types of comments DEQ received, and the general concerns expressed during the comment period.

Finneran presented DEQ's recommendations and the commissioners asked questions about the recommendations and proposed rules. Ginsburg, Finneran and Fisher responded to the questions and explained specific elements of the proposed rule language. Finneran noted that the commission received an amended attachment A1, which would clarify certain minor parts of the rule language, and that it should replace the original attachment A1 included in DEQ's recommendation for adoption. Fisher explained the amendments, and Ginsburg notified that the amended language clarifies rule language around plant closure requirements and intent and are not subject to additional public comment, per Department of Justice review and the scope of the original public notice.

Commissioner O'Keeffe explained her position on the proposed rule language, and stated that she supports DEQ's recommendations because they support environmental, economic and social advancements for Oregon.

**Motion:** Adopt the following revisions to the commission's existing regional haze rules, and submit the revised rules to the U.S. Environmental Protection Agency as a revision to Oregon's Clean Air Act State Implementation Plan:

- Proposed revisions to the Regional Haze Rules in Division 223, and the State of Oregon Clean Air Act Implementation Plan in Division 200, as presented in amended attachment A1.
- Proposed revisions to 2009 Oregon Regional Haze Plan, as presented in attachment A2.

**Move:** Vice chair Williamson

**Second:** Commissioner O'Keeffe

The commissioners provided additional comment on the rules and motion. Chair Blosser complimented the staff and others who have helped DEQ, and noted his appreciation of the organizations and people who have invested in this decision.

*The motion passed unanimously*

Ginsburg thanked Finneran and Fisher for their work over the years, and others who have been involved in the rulemaking process.

 [Listen to audio MP3 \(60 minutes\)](#)

*Chair Blosser recessed the meeting at 4 p.m. until 8 a.m., Friday, December 10.*

*Commissioners and staff met for an informal and self-pay dinner at a downtown Portland restaurant on Thursday evening. The dinner is not part of the formal meeting agenda, but is required by public meetings law to be noticed if three or more commissioners attend.*

## **Friday, December 10**

Chair Blosser reconvened the meeting at 8 a.m.

*Members present:* Chair Bill Blosser, Vice-chair Ken Williamson, Commissioner Jane O'Keeffe, Commissioner Donald Dodson and Commissioner Judy Uherbelau

*This item was taken out of order, and was amended from an action to an informational item*

### **E. Informational item: Water quality 401 program fee increase**

*Presenter: Director Pedersen*

Director Pedersen explained that the item was a proposed fee rulemaking, and DEQ reopened the public comment period based on an understanding that some people did not have an opportunity to comment during the two previous public comment periods for this item. Director Pedersen explained DEQ will bring a revised rule proposal for commission action sometime in 2011, after staff review and respond to comment received before the close of the comment period on Dec. 23. He noted that any