



State of Oregon Department of Environmental Quality

Notes of the 392nd regular meeting of the Oregon Environmental Quality Commission

DEQ laboratory, Main conference room

- *3150 NW 229th Avenue, Hillsboro*

A workshop previously scheduled for Tuesday, Jan. 17, 2017, was postponed due to inclement weather.

Note: Some items were taken out of order throughout the meeting agenda.

Wednesday, Jan. 18, 2017: 8 a.m. to 5 p.m.

The commission convened at approximately 8:30 a.m.

- **Present:** Chair O'Keeffe, Vice-chair Armstrong, Commissioner Eden, Commissioner Johnson and Commissioner Rider

A. Opening and welcome: New commissioner

Interim director Whitman and the commission introduced and welcomed Commissioner-appointee Sam Baraso, who attended the meeting in a non-voting capacity. Commissioner Baraso's four-year term begins Feb. 1, 2017.

B. Action item: Meeting minutes

Commissioners reviewed and took action on the proposed draft minutes from recent EQC meetings.

Action: Approve the meeting minutes for a Nov. 2-3, 2016, regular and Jan. 3, 2017, special EQC meeting as presented

Move: Commissioner Johnson

Second: Commissioner Eden

The commission unanimously approved the action.

C. Informational item: Portland Harbor updates

Interim director Whitman presented an update on recent state and federal actions related to the Superfund cleanup site in Portland Harbor. He provided several handouts with maps and other information to support the presentation. Commissioners asked clarifying and informational questions and discussed their concerns about the harbor and the cleanup plans, under negotiation among many governmental entities.

D. Action item: Proposed phase-two fee increase for Title V permits

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Jerry Ebersole, Air Quality Operations manager, and Don Hendrix, Title V invoice coordinator, presented the second of a two-phase fee increase for Title V air quality permits. Ebersole explained that the proposal would increase these permit fees by 0.80 percent, in accordance with the annual increase in the Consumer Price Index. Hendrix presented an overview of the proposed increase, including the agency justification for the request and the two-phase approach.

Commissioners asked clarifying and informational questions about the ongoing costs of the program and other specifics

Action: Adopt Phase 2 of the proposed rules in attachment A as part of Chapter 340 of the Oregon Administrative Rules

Move: Commissioner Johnson

Second: Vice-chair Armstrong

The commission unanimously approved the action.

E. Action item: Proposed update to the Oakridge-Westfir PM_{2.5} Attainment Plan

Merlyn Hough, Director of the Lane Regional Air Protection Agency presented an update to the PM_{2.5} Attainment Plan for the Oakridge-Westfir area. Hough explained that the proposed update was approved by LRAPA in 2016, and state law requires that any action by LRAPA, the state's only regional air authority, also be approved by EQC and submitted to EPA as an update to the State Implementation Plan under the federal Clean Air Act.

Hough described the history of the attainment plan, issues associated with fine particulate matter in the Oakridge area and other contextual and background information. He and the commission discussed the success to-date of the Oakridge area to reduce fine particulate emissions and come into attainment with federal and state standards. Commissioners asked informational questions about Oakridge and next steps for the community to improve air quality.

Action:

1. Adopt the Updated Oakridge-Westfir PM_{2.5} Attainment Plan in attachment A as part of chapter 340 of the Oregon Administrative Rules;
2. Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040;
3. Direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.

Move: Vice-chair Armstrong

Second: Commissioner Rider

The commission unanimously approved the action.

F. Informational item: Study on market mechanisms for reducing greenhouse gases

Colin McConnaha, Climate Change Specialist, presented information about DEQ's report to the Oregon Legislature, as requested in March 2016 and due to the 2017 Oregon Legislature, regarding a market-based strategy for reducing greenhouse gases statewide.

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McConnaha noted that the state is projected to miss its reduction goals for 2020, and the state has pursued legislative and policy opportunities to study ways to further reduce greenhouse gas emissions. Commissioners discussed the content of the draft report; the economic assumptions associated with market-based solutions to emissions reductions; other state and regional initiatives to reduce greenhouse gas emissions; and other details of greenhouse gas emissions reduction policy and opportunities for the state.

G. Informational item: Materials Management Program updates

Loretta Pickerell, Materials Management manager, and David Allaway, Materials Management policy analyst, presented updates about the activities, recent and planned, for the Materials Management Program. The commission had requested regular updates from the program as it works to implement *Materials Management in Oregon: 2050 Vision and Framework for Action* as approved by the commission in 2012.

Allaway described the program's accomplishments over the past year, including grants provided for many types of projects and activities that support the objectives of the *2050 Vision*. He also described the planned projects and the next steps for the program through 2017 and 2018. Pickerell explained that the program expects to bring some proposed revisions for commission action in the coming years, including changes to county recovery goals that focus on the outcome of the programs rather than tonnage of materials collected. The commissioners asked informational questions about the program, and noted their appreciation for the program's work.

H. Action item: Proposed revisions to Oregon's rules for recycling

Loretta Pickerell, Materials Management manager, introduced this item. Peter Spendelow, Materials Management specialist, presented proposed revisions to Oregon's recycling rules, as directed in Senate Bill 263 from the 2015 Legislative Session. Spendelow described the content of the proposed rules, the engagement and public comment process and next steps for implementation.

Action: Adopt the proposed rules in attachment A of agenda item H, implementing Senate Bill 263 as enacted by the 2015 Legislature, as part of Chapter 340 of the Oregon Administrative Rules

Move: Commissioner Eden

Second: Commissioner Rider

The commission unanimously approved the action.

The commission recessed from approximately 12:30 to 1:30 p.m. for lunch

I. Informational item: Budget and Legislative updates

Greg Aldrich, Office of Policy and Analysis manager, and Palmer Mason, Senior Legislative advisor, presented updates on agency, state and federal budget and legislative matters of interest to the commission, including updated budget forecast information.

The commission and staff discussed the updates, the committee structures and membership for the 2017 Legislative Session and other budget details.

J. Action item: Budget certification request

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Greg Aldrich, Office of Policy and Analysis manager, presented a request that Chair O’Keeffe, on behalf of the commission, certify the agency’s 2017-19 Governor’s Recommended Budget submittal. He noted that this certification is required for all state agencies that have a board or commission with oversight responsibilities and that the end product is being audited for any errors, as is standard practice.

Action: Authorize Chair O’Keeffe, on behalf of the commission, to sign and certify the DEQ 2017-19 Governor’s Recommended Budget submittal

Move: Commissioner Johnson

Second: Vice-chair Armstrong

The commission unanimously approved the action.

K. Informational item: Legislative process

Greg Aldrich, Office of Policy and Analysis manager, and Palmer Mason, Senior Legislative advisor, presented a comprehensive overview of the agency’s role, responsibilities and regular activities in a Legislative Session and discussed key topics for the agency in 2017. Commissioners discussed ways they would like to be engaged through the Legislative Session, and how to make their involvement useful and meaningful to DEQ. Mason provided specific detail on the state rules related to lobbying as they would pertain to commissioners, and Gary Vrooman, EQC legal counsel, provided clarifying legal information for the rules.

L. Recognition of service for Chair O’Keeffe

During this item, staff and commissioners celebrated Chair O’Keeffe’s tenure. The Jan. 17-19, 2017, EQC meeting was Chair O’Keeffe’s final regular EQC meeting as a commissioner, with service starting July 2008. Attendees provided their words of thanks and appreciation for her service on the commission and to the state.

M. Informational item and tour: DEQ’s monitoring program

Lori Pillsbury, Lab manager, provided an overview on the work of the lab to support the agency’s monitoring programs. A number of lab staff co-presented specific information about their programs. Following this introduction, Pillsbury led the commission on a walking tour of the lab facility. After the tour, commissioners and staff returned to the meeting space and discussed elements of the lab’s work and agency coordination for environmental data.

The commission recessed at approximately 5 p.m. until 8:30 a.m. on Thursday, Jan. 19, 2017.

Thursday, Jan. 19, 2017: 8:30 a.m. to 5 p.m.

The commission reconvened at 8:30 a.m.

- **Present:** Chair O’Keeffe, Vice-chair Armstrong, Commissioner Eden, Commissioner Johnson and Commissioner Rider

N. Public forum

The commission opened a public comment opportunity, and noted that people may present comments in-person at the Hillsboro meeting venue, or via telephone conference call at the Bend and Eugene DEQ offices. No people attended by telephone conference call, and seven people presented comment to the commission:

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1. Dale Feik, Hillsboro resident and environmental advocate, provided comments related to his ongoing engagement with the commission.
2. Ilsa Perse, Stop the Dump Coalition, presented comments regarding Riverbend Landfill and concerns with that site
3. Susan Watkins, neighbor of Riverbend Landfill, presented comments regarding her concerns with the landfill
4. Ramsey McPhillips, neighbor of Riverbend Landfill, presented comments regarding his concerns with the landfill and provided some clarifying answers to commissioners' questions during this item
5. Mary Lou Putman, Hayden Island resident, presented comments regarding her concerns with oil re-refining processes at a site on Hayden Island
6. Steve Putman, Hayden Island resident, presented comments regarding the emissions from oil re-refining processes at a site on Hayden Island
7. Julia DeGraw, Food and Water Watch, presented comments regarding concerns about emissions from CAFOs and the regulations for air and water quality at these large sites. She submitted a letter co-signed by several other advocacy organizations.

O. Informational item: Nationwide Permit for Section 401 Water Quality Certifications

Steve Mrazik, Northwest Region Water Quality manager, introduced the item and provided background information about the program. Sarah Christensen, Statewide 401 Water Quality Certification coordinator, presented information regarding a potential re-issuance of the U.S. Army Corps of Engineers' Nationwide Permit for Section 401 Water Quality Certification.

Christensen described the permits and certification, the plan for the 2017 update and other program specifics. Commissioners asked clarifying and informational questions about the plan and discussed the feedback generated so far by the proposed changes.

P. Informational item: DEQ's information technology infrastructure

Kerri Nelson, Central Services Division administrator, and Clint Bollinger, IT manager, presented an update on the current state of the agency's IT infrastructure, progress toward improvements and next steps. Darrell Landrum, from Oregon's Chief Information Office, co-presented during this item to provide additional contextual information about the state's systems, generally, and how DEQ's efforts connect to state objectives for information technology.

Commissioners asked clarifying and informational questions throughout the presentation, and discussed their requests for future updates regarding state and agency information technology projects.

Lunch and executive session

The commission recessed from approximately 12:15 to 1:30 p.m. for a working lunch and executive session. The executive session was held pursuant to public meeting law under ORS 192.660(2)(h).

Q. Action item: Contested case

Paul Garrahan, Department of Justice staffer serving as EQC legal counsel, introduced this item to provide summary information and outline the commission protocol. He noted that this case was remanded back to the commission by the Oregon Court of Appeals following a 2011 EQC decision to

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uphold the civil penalty and fees DEQ issued to Bandon Pacific for water quality violations in 2009. Commissioner Eden stated her disclosure of past employment with Miller Nash, the firm representing Bandon Pacific, and asserted that she did not have Bandon Pacific as a client nor does she know their representation and intends to participate fully in the hearing.

Sarah Wheeler, Compliance and Enforcement manager, and Jeff Bachman, Environmental Law Specialist, presented DEQ's position in the matter. Gary Vrooman, Department of Justice, provided additional legal clarification for DEQ's position when needed. Tony Del Ponte, Bandon Pacific, and Suzanna LaCampagne, Miller Nash, presented Bandon Pacific's position in the matter.

Commissioners asked both parties clarifying and informational questions and discussed the matters before them in the hearing.

Action: Issue an amended final order finding that the magnitude in the civil penalty calculation should be moderate based on reasoning proposed by DEQ

Move: Commissioner Eden

Second: Vice-chair Armstrong

The commission approved the action with four commissioners in support and one opposed.

- *Support: Chair O'Keeffe, Vice-chair Armstrong, Commissioner Eden and Commissioner Johnson*
- *Oppose: Commissioner Rider*

Action: Delegate to the DEQ director the authority to sign the amended final order and issue that amended final order

Move: Commissioner Eden

Second: Vice-chair Armstrong

The commission approved the action with three in support and two abstaining.

- *Support: Chair O'Keeffe, Vice-chair Armstrong and Commissioner Eden*
- *Abstain: Commissioner Johnson and Commissioner Rider*

R. Action item: Proposed Ballast Water Program rule revisions

Rian Hoof, Ballast Water Program, presented proposed revisions to the Oregon's Ballast Water Program to better protect Oregon's water from aquatic invasive species. He noted that part of the rule proposal also includes administrative updates to the organization of the tables of the state's noise regulations, officially defunded by the 1991 Oregon Legislature. Commissioners asked clarifying and informational questions about the proposed changes to ballast water rules and noted their support for the program.

Action: Adopt the proposed rules in attachment A as part of Chapter 340 Division 143 of the Oregon Administrative Rules

Move: Vice-chair Armstrong

Second: Commissioner Rider

The commission unanimously approved the action.

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Draft x
Approved as presented
Approved with amendments

S. Informational item: Commissioner reports and agenda planning

Commissioners discussed updates on their recent activities and other items of interest to the commission. Greg Aldrich, Office of Policy and Analysis manager, presented potential items and planning ideas for future EQC meetings.

T. Informational item: Director's report

Director Whitman presented written and verbal updates on items of interest to the commission.

U. Discussion and informational item: Director's recruitment next steps

Deputy Director Feldon provided an update on next steps for the director's recruitment process, including a proposed draft agenda for a special meeting to complete interviews and other public engagement. The commissioners reviewed the draft agenda, discussed the proposed process and offered their feedback for the planning of the meeting, Jan. 24-26, 2017.

The commission adjourned at approximately 5 p.m.

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Item C 000007