


State of Oregon

Department of Environmental Quality

Memorandum

**Date:** Oct. 25, 2017

**To:** Environmental Quality Commission

**From:** Richard Whitman, Director 

**Subject:** Agenda Item L, Informational and discussion item: Director's report  
Nov. 2-3, 2017, EQC meeting

**Update on agency recruiting and reorganization**

We hired one key new position, and are close to filling another. Scott Brewen is the new Administrator for DEQ's Central Services Division. In this position, Scott oversees Financial Services, Human Resources, Information Technology, and Employee Health and Safety for DEQ. Scott comes to DEQ from the Oregon State Marine Board, where he was director. Prior to that time, Scott held managerial positions with the Department of Corrections and the Department of Public Safety Standards and Training. We are thrilled to have Scott on board, and he is already making a difference in the capacity of agency leadership. We are also close to completing recruiting for DEQ's Senior Legislative Coordinator. Other key recruitments that have begun, or that are about to, include the Administrators for Air Quality and for Water Quality.

We held two meetings in late September and early October with all DEQ managers to discuss the pending agency reorganization, and to get manager input on several key aspects of the changes. In addition, we have communicated the coming changes and the reasons for the changes to all DEQ staff, and have solicited staff input on several specific aspects of the changes. The first phase of reorganization will be complete when we have finished hiring for key positions, and reporting relationships have changed to match the new structure. That is expected to occur by the end of 2017 or very close to that time, depending on recruiting.

One other key aspect of reorganization is formalization of annual work plans for core agency work, and tracking of the implementation of those plans by the agency's Implementation Administrator. This is a new function, and a new position for DEQ, one that will be key in launching and maintaining our renewed commitment to the agency's core regulatory work. While much attention in the past several years has focused on water quality permitting (particularly individual NPDES (federal) permits), this effort will extend to air quality permitting as well, where some significant backlogs exist. Connected with this work, we are also examining the adequacy of our resources to meet legislative and stakeholder expectations (as well as EPA requirements). And, this work also connects to our implementation of recommendations made by MWH for improvements to DEQ's water quality permitting processes.

### **Oregon's recycling program affected by decline in international recycling market**

Earlier this year, China announced its intent to reduce its import of recyclable materials in 2018. This announcement led to concern among members of the recycling industry in the U.S., as China has been the world's largest importer of mixed paper and plastics both globally and for Oregon. Even without the import ban in place or final announcements of what materials will be rejected, some facilities in Oregon have stopped accepting certain types of materials and slowed their processing to ensure materials meet the stringent cleanliness and contamination requirements proposed by Chinese recycling buyers.

DEQ convened a meeting in early October to address the market disruptions caused by China's announcement. At that meeting, DEQ met with local governments, collectors, processors and industry representatives to discuss the concerns and potential next steps for Oregon's recycling programs. As the state regulatory agency for recycling and landfills, DEQ has the authority to allow recyclers to dispose of the materials in a landfill where there is no capacity to process or market the recycled materials. On October 18, DEQ announced that the agency would allow recyclers to temporarily landfill otherwise recyclable materials provided they could track and report on the disposals. Under the six-month allowance, subject to administrative review by DEQ in three months, facilities must submit reports to DEQ about the materials disposed of and ensure that local governments are notified, and approval granted if necessary, of any disposals in lieu of recycling. DEQ staff, along with project and government partners, continue to work together to find immediate and long-term solutions for Oregon's recycling markets.

### **Climate change work: Materials Management projects**

Reducing greenhouse gas emissions is one of several environmental outcomes the Materials Management Program is working on. In addition to developing a statewide methodology for measuring the emissions of the products and materials consumed/used by Oregonians, there are two additional projects that will be highlighted for the Commission. In the first project, DEQ is providing financial and technical assistance to the Oregon Concrete and Aggregate Producers Association to help them use a labeling tool to declare a low-carbon concrete in Oregon.

A second project involves reducing wasted food. Between 25-40% of all food produced or imported into this country for consumption is never eaten. As food production, transport, and distribution are energy intensive, food waste prevention is an area with significant potential for greenhouse gas reduction. DEQ work includes foundational baseline research, business case studies, outreach materials, and a partnership with other west coast cities, states and the province of British Columbia.

### **Climate change work: Electric Vehicle Rebate Program**

House Bill 2017, commonly referred to as the state transportation package, was signed into law in July and establishes state rebates to incentivize the purchase and lease of electric vehicles. DEQ is the state agency assigned to develop the program to provide these rebates.

The bill authorizes two types of rebates:

1. Electric Vehicle Rebates

A rebate available to any person purchasing or leasing a new electric vehicle, when the vehicle has a base Manufacturer's Suggested Retail Price of \$50,000 or less.

- \$1,500 to \$2,500 for the purchase or lease of a new EV with a battery capacity of 10kWhs
- \$750 to \$1,500 for the purchase or lease of a new EV or plug-in hybrid vehicle with a battery capacity less than 10 kWh

The bill also phases in rebates for new electric motorcycles and neighborhood electric vehicles in 2019.

2. "Charge Ahead" Rebates

The Charge Ahead rebate can be used for the purchase or lease of a new or used EV if the purchaser/lessee meets the following eligibility criteria:

- Is part of a low or moderate income household, defined as up to 120 percent of the median family income of their nearest metropolitan area
- Resides in an area of the state with poor air quality from transportation-related emissions
- "Scraps" a car that is at least 20 years old and powered by an internal combustion engine

Rebates will be between \$1,250 and \$2,500. Individuals who are eligible for a Charge Ahead rebate can combine it with a conventional rebate, saving up to \$5,000 when purchasing or leasing a new EV. DEQ has begun the process to develop recommendations to the EQC for rules for the program's eligibility criteria, application procedures, rebate amount, and financial controls. We intend to bring the rules for commission action this spring.

House Bill 2017 also establishes a tax on the privilege of selling new motor vehicles as a means to fund the EV rebates. The tax is equivalent to 0.5 percent of the vehicle's retail sales price. Up to \$12 million annually of the tax revenue may be used for the EV rebates and program administration. The bill requires that:

- At least 10 percent of available funds are used for Charge Ahead rebates
- No more than 10 percent of available funds are used to administer the two rebate programs

The privilege tax becomes operative Jan. 1, 2018. It is unclear exactly when tax revenue will be available and sufficient to launch the rebate programs; however, DEQ expects it may be mid-2018 at the earliest. The bill allows, but does not require, purchases made after Oct. 6, 2017, to qualify for rebates; however, under the legislation, rebates can't be made until there are sufficient funds available to the rebate program.

DEQ anticipates contracting the administration of the rebate programs to a third-party entity, as allowed by House Bill 2017, instead of administering the program in-house. DEQ would manage and update this contract as necessary, and provide audit and oversight functions over the program.

## **Climate change work: Clean Energy Jobs Legislation**

During the 2017 Legislative Session, the Senate and House environment committees held multiple joint meetings to hear from experts on reducing greenhouse gas emission through market-based approaches (i.e. cap-and-trade, cap-and-invest etc.). Those meetings culminated with the introduction of Senate Bill 1070, commonly referred to as the "Clean Energy Jobs bill."

In summary, the bill aims to reduce Oregon's economy-wide emissions of greenhouse gases by:

- Establishing a statewide limit on greenhouse gases (the cap). This limit cuts across sources of emissions such as the transportation, industrial and energy sectors. It is not a limit on specific businesses or facilities.
- To meet the cap, sources such as fuel importers and large industrial emitters acquire and turn in allowances (permits to emit a ton of CO<sub>2</sub>) of sufficient quantity to cover their greenhouse gas emissions.
- Once allowances are auctioned or otherwise issued by the State, sources can buy and sell them (the trade).
- Revenue from the auction of allowances can be used to invest in projects and programs for a variety of purposes. These include: greenhouse gas reduction, building the resilience of communities that are most vulnerable to climate change impacts, and lessening economic impacts to affected workers and industries that compete in global markets.

This fall, Senator Dembrow and Representative Helm are convening four legislative workgroups to further discuss policy issues related to Senate Bill 1070. The workgroups are comprised of legislators and diverse stakeholders, and are organized to discuss the following key issue areas:

- Agriculture, Forests, Rural Communities and Tribes
- Utilities and Transportation
- Regulated Entities
- Environmental Justice and Just Transition

DEQ staff are participating in this workgroup process as technical consultants. Specifically, agency staff have provided and interpreted data reported to the agency under our mandatory greenhouse gas reporting requirement. Staff have also presented on findings from DEQ's study; [\*Considerations for Designing a Cap-and-Trade Program in Oregon.\*](#)

## **EDMS project updates**

In September, the Environmental Data Management Systems project moved forward with internal program reviews and a milestone submittal for the state's State Gate process. Project business analysts held interviews with the Materials Management program staff to establish documentation for current business processes in that program, and the desired future state when EDMS systems are in place. Business analysts also met with Air Quality Program leads to gather background information and solicit contractor bids to begin the interviews and business system mapping for the air program.



In September, the project team submitted the EDMS project charter to the State CIO's office for approval. Oregon agencies are required to go through a multi-stage approvals process for large information technology projects, and this submittal completed the State Gate 2 requirements.

Program staff will co-present a comprehensive update on EDMS work at the January 2018 EQC meeting as part of an informational item on DEQ's Integrate Resource Management plan for IT projects across the agency.

### **Water Quality Permitting Program updates**

A number of efforts are underway, including the second phase of the Data Bridging project, focused on developing tools permit writers can use now and that will improve our process in the long run. The first phase of the Technical Assistance Definition project has been completed, and DEQ plans to meet with stakeholders to discuss what work the program can outsource and how that work will be funded.

DEQ reached a major milestone on September 22 when it completed the initial permit readiness reviews. The reviews have been instrumental in helping DEQ develop a 2018 permit issuance plan. Going forward, DEQ will use this critical information to help prioritize work in our water quality program's TMDL and standards sections.

In late October, DEQ completed the permit issuance plan for 2018, which includes 36 specific individual permits and four placeholders for incoming new applications. To ensure we adhere to the plan, DEQ water quality permit managers have assigned eight employees to work almost entirely on NPDES permit writing. This focus on permit writing is in line with the recommendations of the December 2016 consultants' report.

The staff committed to reducing the NPDES permits backlog will continue to report to their current managers while we work on identifying the ideal reporting structure for the future. Those managers will be able to track the progress and time spent on each and every permit. DEQ's tracking tools will not only show whether we're able to deliver the issuance plan on schedule, but will also provide us insight into what it will take to operate a sustainable NPDES permit program.

Two senior staff are assigned to help these permit writers address barriers during permit development, ensuring that issues that arise during permit drafting can be promptly solved. DEQ is also considering bringing in EPA's national NPDES contractor to provide training for the dedicated permit writers, and possibly to compile a permit writer's manual.

DEQ has reached a number of milestones in 2017 in our permit improvement project. We realize we have a lot of work yet to come, but with the building blocks we have in place we feel we've established a strong foundation for that work. We will closely monitor progress on the issuance plan and other projects, and will continue to provide detailed updates to the commission.

### **DEQ's lab releases report showing toxics in fish tissue**

In 2007, DEQ received funding from the legislature to start a comprehensive water quality toxics monitoring program. Since that time, the laboratory collected samples of water, tissue and sediments from around the state and analyzed these samples for more than 500 chemical contaminants. The laboratory recently completed its initial assessment of the fish tissue samples collected since 2008. This report includes samples from around the state including coastal shellfish.

PCBs, chlorinated pesticides, such as DDT, and flame retardants occurred across the state at levels below state fish consumption levels. Mercury detections occurred statewide above DEQ's water quality criterion and state fish consumption levels. The Oregon Health Authority utilized this mercury data as part of its statewide smallmouth bass fish consumption advisory. In addition, inorganic arsenic concentrations in two species of coastal shellfish resulted in a consumption advisory. Sampling of fish tissue is on-going. Recent collections include crayfish and a recent partnership with OHA, ODFW and Washington Ecology to analyze estuary sturgeon for PCBs. These data are forthcoming.

### **Portland Harbor**

The next phase of work on Portland Harbor will include "baseline" sampling. This sampling is critical to establish current conditions upstream of the Superfund site, within the Superfund site, and downstream of the site for purposes of monitoring progress and, ultimately, when a successful cleanup has been completed. EPA has been negotiating with particular landowners to carry out this work. A recent proposal raised concerns that the work was being designed to revisit decisions already made regarding cleanup levels and other aspects of the project. DEQ is EPA's partner in this cleanup, and there were process concerns in addition to substantive issues. The result was a letter sent to the EPA Region 10 Administrator. EPA has been responsive, so far, to the concerns raised, but we continue to monitor the negotiations closely.

### ***Regional highlights: Eastern Region***

#### **Port of Morrow Mutual Agreement Order**

DEQ and the Port of Morrow have entered into an agreement to address chronic violations of the Port's wastewater disposal permit. The Port, the second largest in Oregon, is located in north central Oregon near the town of Boardman and operates the largest industrial wastewater facility in Eastern Oregon. After treatment, the Port applies nutrient rich wastewater generated by the tenants at its industrial park, primarily food processors, to croplands in accordance with a DEQ issued Water Pollution Control Facility Permit.

In the past ten years, facility expansion and new tenants at the Port's industrial center have resulted in significant increases in the total volume of wastewater and chronic violation of permit limits intended to prevent over application of nitrates. The Port's land application areas fall

completely within the Lower Umatilla Basin Groundwater Management Area which is designated as such for high nitrate concentrations in the groundwater.

Because the Port failed to achieve compliance under a prior agreement with DEQ that applied to operations in 2008-2014, DEQ and the Port have entered into the new agreement. The agreement waives enforcement actions for certain violations in 2017 through March 2018 while the Port expands treatment, storage and acreage. The Port has also paid a civil penalty of \$31,600 for violations in 2015 and 2016.

### ***Regional highlights: Northwest Region***

#### **Update on Oil re-refiners near Jantzen Beach/North Portland Harbor**

DEQ has been regulating two oil rerefiners, APES, American Petroleum Environmental Services, and ORRICO, Oil Re Refining Company, for many years. Historically, both companies have had Air Contaminant Discharge Permits. Recently, DEQ issued a renewed Air Contaminant Discharge Permit and a new solid waste permit for APES. APES also recently underwent a merger with another company EcoLube Recovery, ELR. DEQ is still in the process of drafting a renewal air permit and new solid waste permit for ORRICO.

Both companies have entered into Mutual Agreement and Order relationships with DEQ and have agreed to install additional pollution control equipment to better control odors and emissions. The MAOs are enforceable documents, like permits. In APES/ELR's case, some of the equipment has been installed and the facility performed a source test to determine its effectiveness. The results of that test will be available by mid-November. For ORRICO, the elements of the MAO should be implemented within the next year.

There has been some recent enforcement at APES/ELR due to not meeting milestones specified in the MAO. DEQ continues to receive complaints from community members about these two facilities and is working with facility representatives to ensure compliance with current permits and the conditions of the MAOs.

### ***Regional highlights: Western Region***

#### **Jordan Cove LNG (Solid Waste, North Bend)**

Jordan Cove LNG Energy Project submitted its application to the Federal Regulatory Energy Commission on September 21. FERC issued the notice of intent to prepare an Environmental Impact Statement for the liquefied natural gas terminal and 230-mile pipeline. The U.S. Army Corps of Engineers has also issued the notice of intent to prepare an EIS to deepen the navigational channel in Coos Bay. For both of these projects, DEQ will be an intervening agency in these federal agencies' EIS process. On October 24, the Corps received the 404 (dredge/fill) joint permit application from Jordan Cove LNG. A public notice, issued jointly by the Corps' 404 program and DEQ's 401 Water Quality Certification programs, and 60-day public comment period is planned for the application to begin November 3.

**City of Powers Wastewater (WQ Permitting/SRF, Powers)**

In a recent meeting with delegation staff, USDA Rural Development announced they are de-obligating the funding package for Powers since the city is no longer interested in moving forward with the project that the city applied for. The City of Powers is interested in doing a wastewater treatment plant upgrade but with an undersized plant capacity and utilizing the existing gravity collection system. Complicating this scenario is the \$1.2 million owed by the city for loans from the Clean Water State Revolving Fund Loan Program.