

# Minutes of the three hundred and sixty-eighth regular meeting of the Oregon Environmental Quality Commission

June 21-22, 2012  
DEQ headquarters, room EQC-A  
811 SW 6<sup>th</sup> Avenue  
Portland, Oregon

## Thursday, June 21

**Present:** Vice-chair O'Keeffe (acting chair), Commissioner Uherbelau, Commissioner Rider and Commissioner Armstrong.

Vice-chair O'Keeffe convened the meeting at 8:30 a.m.

### **A. Action item: Minutes from the April 25-27, 2012, EQC meeting**

The commissioners reviewed the draft minutes from the April 25-27, 2012, EQC meeting and corrected typographical errors.

Action: Approve the April 25-27, 2012, EQC meeting with amendments

Move: Commissioner Armstrong

Second: Commissioner Rider

*The commission unanimously approved the April 25-27, 2012, EQC meeting notes with amendments.*

### **B. Informational item: Recommendations on Clean Water State Revolving Fund rule amendments**

Judy Johndohl, Water Quality Division manager, introduced the item and her two co-presenters, Manette Simpson, Water Quality Division Clean Water State Revolving Fund staff, and Mary Wahl, Clean Water State Revolving Fund advisory committee member.

Johndohl presented an overview of the program. Manette Simpson described the need for the proposed rule changes, and explained how DEQ supports the advisory committee's recommendations for rule changes.

Mary Wahl, the Oregon Environmental Council representative to the advisory committee, presented the advisory committee's guiding principles, a summary of the group's process and the committee's recommendations for changes to the rules for the Clean Water State Revolving Fund loan program. Wahl provided examples of loan program projects and their benefits. Manette Simpson added that DEQ will hold a public comment period on the proposed changes and bring the final rule proposal for commission action in December 2012.

The commission discussed the presented material, and asked clarifying and informational questions about the program and the proposed rule changes.

**C. Action item: Title V permit fee increase rulemaking**

Joanie Stevens-Schwenger, acting Air Quality Division administrator, introduced the item. Esther Westbrook, DEQ environmental law specialist and policy analyst, presented the proposed increase to permit fees for the Title V program.

Westbrook described the program's background, function, the sources required to hold a Title V permit and DEQ's responsibilities to administer the program. The commission discussed the proposed rule changes, and asked clarifying questions about the proposed rule revisions.

Action: (1) Determine that increasing Title V operating permit fees by the change in the consumer price index, according to the proposed rules presented in attachment A of the item, is necessary to cover the reasonable indirect and direct costs of implementing Oregon's Title V operating permit program; and  
(2) Adopt the proposed amendments to Oregon Administrative Rules Chapter 340, Divisions 220 and 215 as presented in attachment A of the item.

Move: Commissioner Rider

Second: Commissioner Armstrong

*The commission approved the rules as presented, with three commissioners in favor and one abstaining. Commissioner Uherbelau noted that she supports the fee increase and abstains due to her concerns regarding the wording of the rules.*

In favor: Commissioner Rider, Commissioner Armstrong and Vice-chair O'Keeffe

Opposed: None

Abstaining: Commissioner Uherbelau

**D. Action item: ECycles rulemaking**

Wendy Wiles, Land Quality Division administrator, introduced the item and her co-presenters, Loretta Pickerell and Jordan Palmeri. Wiles provided program background information, and explained that DEQ is asking the commission to modify the ECycles registration fees to meet the legislative intent of having the fees fully fund the program.

Loretta Pickerell, Land Quality Division solid waste program and policy manager, described the program's function and DEQ's responsibilities in administering the program. Pickerell explained the proposed rule changes, based on the revenue need for DEQ to maintain program services. Jordan Palmeri, Land Quality Division policy analyst, presented information about the alternatives considered for the program rules and explained the affect of the proposed rules.

The commissioners asked clarifying and informational questions about the rule proposals.

Action: Adopt the proposed permanent rules, in attachment A for the item, as part of chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Armstrong

Second: Commissioner Uherbelau

*The commission unanimously approved the Oregon ECycles rules as presented.*

Following the commission's action, Director Pedersen noted that this item had a new report format, which was the outcome of a Kaizen event to improve the agency's rulemaking process. He explained that the new format is intended to reflect the streamlined process, integrates all customary rulemaking information and does meet all legal requirements.

**E. Informational item: DEQ annual financial report**

Jim Roys presented the agency's annual financial report. He explained that the commission chair is responsible for certifying DEQ's budget information, currently scheduled for the August 2012 EQC meeting, prior to the agency submitting its budget request for legislative approval. He noted that the annual budget report helps the commission stay aware of the agency's budget considerations, which is a requirement under the commission's key performance measures and best practices.

The commission asked clarifying and informational questions about the budget information.

**Lunch**

Vice-chair O'Keeffe recessed the commission for lunch from noon to 1:10 p.m.

**F. Informational item: Budget and legislative items update**

Palmer Mason, interim government and legislative relations manager, presented an update about the state and agency budget development processes. He also discussed legislative developments since the last presentation at the April 2012 EQC meeting. The commission asked clarifying and informational questions about the budget and legislative information.

**G. Informational item: Portland Air Toxics Solutions project**

Nina DeConcini, Northwest Region Division administrator, introduced the item and her co-presenter, Sarah Armitage, Air Quality Division air toxics specialist. DeConcini explained the commission's role, the outreach process and the advisory committee process for the Portland Air Toxics Solutions project. DeConcini noted the significant contributions of the advisory committee members in helping DEQ understand and recommend solutions for air toxics issues in and around Portland.

DeConcini and Armitage provided information about air toxics, DEQ's role in regulating the emissions of air toxics, Portland-specific air toxics issues and the agency's geographic-based approach to reducing air toxics. Armitage explained that, through the Portland Air Toxics Solutions process, DEQ has improved its technical understanding of air toxics.

Armitage presented the technical information from the project, information about DEQ's air toxics program and air toxics found in the Portland area through sampling and modeling. DeConcini explained that DEQ has exhausted the resources supporting the project.

DeConcini introduced advisory committee members who will present their information as a panel, following this presentation, with a public comment opportunity at the end of the day.

Members of the Portland Air Toxics Solutions project advisory committee presented information related to their service on the committee and discussed the committee recommendations.

**1. Nick Bouwes**, Portland resident and former EPA economist, presented comments about the PATS advisory committee process and offered recommendations for action by EQC and DEQ. He provided positive feedback

and constructive criticism of how DEQ can improve the format, process and outcome for geographically-based air quality improvement projects.

**2. Jon Ostar**, director of Organizing People Activating Leaders - Environmental Justice Oregon, presented comments about the process and stated that DEQ must comply with the 2007 legislation requiring environmental justice to be considered in every environmental decision in Oregon. He noted that the Portland Air Toxics Solutions process integrated environmental justice concerns into its analysis, and that the agency needs to move forward with more collaborative and representative inclusion of communities affected by environmental decisions and actions.

**3. Warren Fish**, Multnomah County Commissioner Jeff Cogen's office, presented comments about Portland's need to be aware of and reduce the presence of air toxics in the region. He noted that the county has a healthcare outcome that focuses on health disparities in the community, and PATS is a good way to raise awareness of these risks and opportunities for improvement. He explained that the county is working with DEQ to reduce emissions across the region through diesel engine retrofits and other asset-specific improvements for cleaner air.

**4. Matt Bihn**, Metro government agency, explained that Metro is incorporating air toxics into its planning and development models, and shares the goal of reducing emissions of air toxics in the Portland area. Bihn described Metro's plans that connect with the goals and recommendations of the Portland Air Toxics Solutions advisory committee.

**5. David Breen**, Port of Portland air quality project manager, presented comment in support of the advisory committee's process and DEQ's work. He noted that the Port of Portland will continue to implement changes to reduce air toxics in the Portland area.

The commissioners thanked the panelists for their comments, and asked the panelists clarifying and informational questions about specific projects, next steps or other feedback.

#### **H. Portland Air Toxics Solutions project public comment period**

At 3:35 p.m., the commission opened a public comment period specifically for people to comment on the Portland Air Toxics Solutions project, committee report and recommendations. Five people submitted forms to present comment.

**1. John Ledger**, Associated Oregon Industries, explained that AOI had a representative on the committee, and he felt the process was open and constructive. He described AOI's concerns related to the PATS advisory committee report, specifically the lack of actual ambient monitoring data used to create the project plans. He stressed the importance of restoring funding for monitoring to have data serve as the baseline of the report, instead of modeling information. He offered suggestions on improvements for future geographically-based air toxics projects.

**2. Sharon Genasci**, northwest Portland resident, explained that she has worked on air quality issues for the past 16 years. She seconded the statement that DEQ should use more monitoring, and less modeling, data as the basis for its plans and scenarios. She stated that DEQ's prioritization of sources was flawed, and offered a

summary of her written testimony that she gave to the commissioners. She asked the commission to use its discretion to require cleaning air for the public good.

**3. Mary Peveto**, Neighbors for Clean Air and northwest Portland resident, thanked the commissioners for their service as citizen volunteers. Peveto, a member of the Portland Air Toxics Solutions advisory committee, said that it was a difficult process and noted that the material collected was robust and commendable. She echoed previous comments about the lack of representative participation on the committee, and noted specific concerns about the process, outcome and encouraged DEQ to reevaluate how it assesses industrial point source emissions to provide cleaner air for Oregon.

**4. Esteban Camacho**, Portland citizen, presented comment about petroleum and gas fumes. He expressed concern for Portland's air and water due to the gas tanks in north Portland that contain undocumented contaminants or chemicals. He asked the commission to investigate regulation of fumes from petroleum sources, and for Oregon to be a lead in dealing with air contamination from natural gas.

**5. Alex Santana**, Portland citizen, presented comment about bulk gasoline terminals in north Portland. He lives and works in north Portland, and noted that the bulk petroleum terminals in north Portland are absent from the PATS report and recommendations. He expressed concern for the petroleum odors from these terminals, and asked for clarification about why those terminals do not seem to be captured in the report's inventory. He asked the commission to require fence-line monitoring of the petroleum terminals as part of the final committee recommendations.

- Director Pedersen noted that this comment will be entered into the record for the report, and DEQ will respond to the comment during its review process.

Vice-chair O'Keeffe closed public comment and recessed the commission for the day at 4:15 p.m. Some commissioners and DEQ staff attended an informal, optional and self-pay dinner in downtown Portland on Thursday evening. No commission business was held during dinner. Public meeting law requires notice of this dinner.

## **Friday, June 22**

**Present:** Vice-chair O'Keeffe (acting chair), Commissioner Uherbelau, Commissioner Rider and Commissioner Armstrong.

Vice-chair O'Keeffe reconvened the meeting at 8:30 a.m.

### **I. Public forum**

At 8:30 a.m., the commission opened public forum. People were able to present comment in-person or remotely by teleconference call at the Eugene, Medford, Pendleton and Bend DEQ offices.

Five people presented comment in Portland. The Eugene office did not connect to the conference call. No people presented comment from the Medford, Pendleton or Bend offices.

**1. Leonard Rydell**, former engineer of record for Riverbend Landfill, presented comment opposing the proposed expansion of Riverbend Landfill. He submitted a copy of his testimony with additional documentation to the commission.

**2. Richard McJunkin**, geologist, presented comment opposing the proposed expansion of Riverbend Landfill due to groundwater issues and concerns about earthquakes. He explained that he had difficulty accessing the public records related to Riverbend Landfill.

**3. Brian Doyle**, environmental engineer, presented comment opposing the proposed expansion of Riverbend Landfill. He noted that he is concerned about the financial liability of the landfill for the area tax payers and residents. He also expressed concern about the landfill's security in the event of a major Cascadia Subduction Zone earthquake.

**4. Jackie Lang**, Waste Management, explained that Waste Management is in ongoing conversation with opponents of the landfill, including the people who presented comment today. She presented comment about the facilities operated by Waste Management and the company's emerging technologies. She invited the commissioners to the community meetings related to Riverbend Landfill.

**5. Ramsey McPhillips**, McMinnville resident, asked the commission to consider the issue of liquefaction related to earthquakes. He asked the commission to recommend energy creation from solid waste as a major opportunity for the governor's new 10-year energy plan.

Vice-chair O'Keeffe asked DEQ to provide an update on the permit status for Riverbend Landfill. Lissa Druback, DEQ Solid Waste manager, provided an update on the permit status for the facility.

#### **J. Informational item: Umatilla facility update**

Joni Hammond, DEQ deputy director, provided an update on the closure activities and DEQ oversight for the Umatilla depot and facility. Lissa Druback, DEQ Solid Waste manager, provided additional information about the timeline for the closure and final demolition of the facility.

#### **K. Informational item: Oregon's improving environment**

Greg Pettit, DEQ Laboratory and Environmental Assessment Division administrator, presented an informational slideshow illustrating environmental improvements in Oregon over the past 40 years. Pettit discussed environmental issues in Oregon, and the long-term trends in improving environmental conditions for the state. Jeff Smith and Aaron Borisenko, DEQ lab managers, provided additional technical information about the environmental data and trends.

The commission asked clarifying questions about the environmental data, long-term trends in environmental conditions and opportunities for DEQ to help Oregonians achieve more environmental improvements. Commissioner Armstrong noted that he attended the national monitoring conference that Pettit organized, and complimented him on the content, organization and success of that conference.

#### **L. Informational item: Director's dialogue**

Director Pedersen presented written and verbal updates on agency, state and federal program activities of interest and relevancy to DEQ and the commission.

The written staff report included an update on:

- Marine debris, including a dock recently washed ashore at Agate Beach that was identified as debris from the 2011 Japanese tsunami

- EPA's disapproval of Idaho's water quality human health standard, based on a fish consumption rate of 17.5 grams per day
- Oregon's role joining a coalition of states urging U.S. Congress to direct EPA to restore funding for air quality in the northwest and northeastern states
- A new internship program at Eastern Oregon University that connects students to communities and collaborates with the state's Regional Solutions Centers
- The success of the Paint Product Stewardship Program in its first year
- The ongoing success of the Oregon ECycles Program
- EPA's approval of DEQ's Upper Klamath River and Lost River Subbasin TMDLs
- The Oregon Clean Fuels Program
- DEQ's proposed rule revisions for the 401 Water Quality Certification Fees

In addition to the written material presented, Director Pedersen offered verbal updates about:

- The new Executive Order on green chemistry and toxics reduction
- His meetings with Oregon's congressional delegation and national EPA executives when in Washington D.C. in June for a conference of the Environmental Council of States, of which he is an officer.

#### **M. Informational item: Commissioner reports**

Commissioners presented verbal updates on their activities of interest and relevancy to DEQ and the commission.

Commissioner Rider explained that the Oregon Watershed Enhancement Board, which she attends as the EQC representative, is developing a long-term funding strategy. She noted that she is attending the Clean Tech Academy, a competitive incubator for the development of clean technology companies, as the national chair for sustainability of that organization.

Vice-chair O'Keeffe adjourned the public meeting at 11:30 a.m.

#### **Lunch and executive session**

Commissioners and some DEQ staff met with Oregon Department of Justice staff over a working lunch in an executive session from 11:30 a.m. to 1 p.m. The session was held pursuant to ORS 192.660(2) (h).

**2012 EQC meetings**  
August 23-24: Portland  
October 25-26: Bend  
December 13-14: Portland