

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

April 21-22, 2011

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

Thursday, April 21

Chair Blosser convened the meeting at 10 a.m.

Present: Chair Blosser, Vice-chair Williamson, Commissioner O’Keeffe, Commissioner Dodson and Commissioner Uherbelau

Director Pedersen introduced Kendall Clawson, director of executive appointments for Governor Kitzhaber. Clawson thanked the commissioners for their service to Oregon, explained her role and the executive appointments process. The commissioners asked questions about Clawson’s work and discussed ways to inform the public about commission and board opportunities in Oregon.

A. Action item: Approval of meeting minutes

The commission reviewed and discussed the draft meeting minutes from the Feb. 16-18, 2011, regular EQC meeting.

Action: Approve the Feb. 16-18, 2011, meeting minutes as presented.

Move: Commissioner Dodson

Second: Commissioner O’Keeffe

The commission unanimously approved the minutes as presented.

B. Informational item: Update on the Umatilla Chemical Agent Disposal Facility

Joni Hammond, DEQ deputy director, introduced Steve Potts, Chemical Demilitarization Program manager. Potts presented an update of activities at the depot since December 2010. He explained that the depot expects to complete mustard agent processing in late November 2011. Potts described pending, approved and rejected permit modifications for the facility for the destruction or disposal of chemical agent. He noted that the facility had no incidents of non-compliance in its last report, and that the facility does self-report its violations or non-compliance events. Potts explained that the depot submitted its revised closure plan, and the plan is out for public comment until mid-May 2011.

Commissioner O’Keeffe asked for more information about plans for land use after the depot closes. Potts explained that the land reuse authority, a group of stakeholders in that area, has recommended reuse options to the U.S. Army, and the Army has incorporated those options into its draft closure plan. Deputy director Hammond explained that DEQ is an advisor in the process, but is not a member of the stakeholder group. Commissioner Dodson asked about projected loss of jobs in the community due to the facility closure. Deputy Director Hammond noted that the U.S. Army and community are discussing these issues.

C. Action item: Oregon Low Emission Vehicle Program rules

Andy Ginsburg, Air Quality Division administrator, introduced Dave Nordberg, senior air quality planner, and presented background information on the proposed rules. Nordberg presented information on California's low-emission vehicle standards, and noted that Oregon's rules must align with California's standards as a requirement of opt-in program, of which Oregon is one of 14 states.

Nordberg described the elements of the proposed rulemaking. He explained that there is a typo in the proposed rule language that references the California standards. He noted that three citations of CCR, Title 13, section 1962 should reference section 1962.1. The three instances of this correction are in OAR 340-257-0030(16) and twice in 340-257-0120(2). Ginsburg noted that DEQ could bring revised rules for commission action in the next two years as California updates its rules.

The commission asked informational and clarifying questions, to which Ginsburg and Nordberg responded.

Action: Approve the rules proposed in attachment A of this item, with the correction noted during the item's presentation.

Move: Vice-chair Williamson

Second: Commissioner Dodson

The commission unanimously approved the rules as presented, with the correction as noted.

D. Action item: Greenhouse gas and PM 2.5 rules

Andy Ginsburg, Air Quality Division administrator, introduced Jill Inahara, air quality specialist, and presented background information on the proposed rules. Ginsburg noted that greenhouse gas emissions are a new area for rule and program development, and praised the DEQ staff who worked on the rulemaking.

Inahara presented the proposed rules and explained the proposed changes. She described the outreach process DEQ used to solicit public input and comment. The commissioners asked clarifying and informational questions, to which Ginsburg and Inahara responded.

Commissioner Uherbelau asked for the comments in future rulemakings to be sent prior to the materials being sent to the commissioners. Director Pedersen stated that DEQ will strive to send comments to commissioners after the close of the comment period for the commissioners' review prior to the final rulemaking packet being sent to the commission.

Action: Adopt the proposed rule amendments to OAR Chapter 340, Divisions 200, 202, 215, 216, 222, 224, 225, 228, and 246 as presented in attachment A of this item, including amendments to the Oregon Clean Air Act Implementation Plan, OAR 340-200-0040, to incorporate these rule amendments. The commission also authorizes DEQ to submit these rule amendments to EPA for federal approval of the revisions to Oregon's Clean Air Act Implementation Plan, also called the State Implementation Plan.

Move: Commissioner O'Keeffe

Second: Vice-chair Williamson

In favor: Chair Blosser, Vice-chair Williamson, Commissioner Dodson and Commissioner O'Keeffe

Opposed: none

Abstaining: Commissioner Uherbelau

The commission approved the rules as presented with four commissioners in support and one abstaining.

Lunch

Chair Blosser recessed the commission for lunch from 11:55 a.m. to 1 p.m. The commission did not hold an executive session at this meeting.

This item was taken out of order

G. Informational item: Director's dialogue

Director Pedersen presented an update on agency activities and other items of interest for DEQ and the commission. The update included information about:

- Industrial stormwater permit updates and the advisory committee process
- The 2010 Oregon Integrated Report on Water Quality
- An update to the water quality human health toxics criteria rulemaking
- The Senate Bill 737 program
- A new EPA report on air toxics in Oregon
- The PGE coal-fired power plant in Boardman
- The Blue Heron Paper Company's closure
- Lake and Harney Counties' control of their onsite septic system programs, under a memorandum of agreement with DEQ
- High bacteria levels in the Tillamook Bay watershed
- A solid waste gasification/vitrification pilot project at the Columbia Ridge Landfill
- Derelict vessels and progress on cleaning up the *Davy Crockett* on the Columbia River
- The reconsideration of a beneficial use determination for dredged sediments to be placed on West Hayden Island
- Reconstruction and vegetation management conflicts at the levee in Milton-Freewater
- Review of the Klamath and Lost River subbasin TMDLs, in response to petitions submitted in February
- A new household hazardous waste collection program for Union, Baker and Wallowa Counties
- Funding cuts to EPA and the effect of those cuts at DEQ

The commission asked clarifying and informational questions about the information, and Director Pedersen responded. Chair Blosser noted that DEQ should acknowledge Union, Baker and Wallowa Counties for their leadership in securing the household hazardous waste facility in La Grande.

E. Action item: Revised water quality standards for arsenic

Neil Mullane, Water Quality Division administrator, introduced Jennifer Wigal, water quality standards section manager, and Debra Sturdevant, water quality policy analyst. Sturdevant presented the proposed rules and described the outreach and development process used to create the proposed rules. Sturdevant also described the proposed arsenic reduction policy, one element of the proposed rule package.

The commission asked clarifying and informational questions, to which Mullane, Wigal and Sturdevant responded.

Action: Amend Oregon's water quality standards for arsenic as presented in attachments A and B of this item, applicable only after the numeric arsenic criteria are approved by EPA and become effective under the federal Clean Water Act. The commission directs DEQ to submit the numeric arsenic criteria to EPA after the commission takes action on a proposed human health toxics criteria rulemaking in June 2011.

Move: Commissioner O'Keeffe

Second: Commissioner Dodson

The commission unanimously approved the rules as presented.

F. Informational item: Annual financial report

Jim Roys, financial services manager, presented the 2010 annual financial report. The commission is responsible for reviewing, approving and certifying DEQ's budget, and must review annual financial reports. Roys presented the information on audits at DEQ, operating subprogram budget statuses and other financial information.

Roys noted that DEQ has reorganized its budget and accounting sections in February 2011, and described the changes to the organization that will improve service, allow staff with technical expertise to oversee the technical work and remove one manager position in the division. He stated that he will report on the outcomes of the reorganization at the 2011 annual financial report presentation in April 2012.

H. Informational item: Commissioner reports

Chair Blosser noted that Vice-chair Williamson has been the EQC representative on OWEB during his term on the commission, and that position must be filled by July in order to attend an OWEB retreat in mid-July. The commission discussed the status of the appointments for Commissioner Dodson and Vice-chair Williamson, as both terms expire June 30, 2011.

Chair Blosser recessed the meeting at 4:05 p.m. until 9 a.m. on Friday, April 22.

Commissioners and some DEQ staff attended an informal dinner at 5 p.m. on Thursday, April 21, in downtown Portland. The dinner was self-pay and not part of the formal meeting agenda. State law requires notice of this dinner.

Friday, April 22

Chair Blosser reconvened the commission at 9 a.m.

Present: Chair Blosser, Vice-chair Williamson, Commissioner Uherbelau, Commissioner Dodson and Commissioner O'Keeffe

Deputy director Hammond presided for Director Pedersen, who was unable to attend the meeting.

I. Public forum

Remote offices: Eugene, Pendleton and Medford

The commission opened public forum and one person presented a request-to-speak form in Portland. No people attended to present comment by telephone at the Eugene, Pendleton or Medford DEQ offices.

1. Ramsey McPhillips presented comment about the Riverbend Landfill in McMinnville. He stated that he has left his family farm, adjacent to the landfill, due to medical advice and the inability to farm the land. McPhillips explained that the landfill lost its legal ability to expand, and is now assessing other options for expansion in its remaining lifespan and capacity of three years. McPhillips stated that the

landfill will not be able to expand, and asked the commission to direct DEQ to issue the required five-year closure permit for Riverbend Landfill.

The commission asked clarifying and informational questions, to which DEQ staff and McPhillips responded. Deputy director Hammond stated that DEQ will assess the situation and report to the commission on issues raised by McPhillips.

This item was taken out of order

L. Informational and discussion item: Commission Key Performance Measures

Joanie Stevens-Schwenger, Office of Communications and Outreach manager, presented information about the commission's self-evaluation key performance measure, and asked the commissioners for their input about ways to enrich the commission meetings. The commissioners discussed the results from the 2010 self-evaluation surveys, and provided feedback on the information in the survey and ways to improve the survey questions.

J. Informational item: Greenhouse gas strategies for transportation

Andy Ginsburg, Air Quality Division administrator, introduced Dr. Rob Zako, Department of Land Conservation and Development land use and transportation planner. Ginsburg explained that the presentation incorporates a lot of work DEQ is doing in partnership with other state agencies in response to legislative direction to reduce greenhouse gas emissions.

Zako explained that the Land Conservation Development Commission met this week and is expected to adopt the greenhouse gas emissions target rule in May. He discussed greenhouse gas emissions scenario planning, which is a process that involves local governments, state agencies, communities and transportation sector representatives. Zako reviewed the state greenhouse gas reduction goals, as developed by the 2007 Oregon Legislature, and discussed the recent technical report created and presented by DEQ, ODOT and the Department of Energy. He discussed the recommendations and expectations of the Transportation Review Advisory Committee, of which Vice-chair Williamson is a member.

Zako presented the light vehicle greenhouse gas emission reduction targets, and discussed the affects of the targets for Oregon's six major metropolitan areas. The commission discussed the targets, and the next steps for Oregon. The commission discussed greenhouse gas reduction targets and activities at DEQ and across Oregon. Ginsburg suggested a joint meeting or informational presentation from ODOT about this information and its work to reduce greenhouse gas emissions in Oregon. Chair Blosser noted that it would be instructive for the commission to have city of Portland staff present on its plans for necessary reductions. Ginsburg recognized Jeffery Stocum and Dave Nordberg as DEQ staff who participated in developing the technical information that supported the planning information.

K. Informational item: Budget and legislative updates

Greg Aldrich, government relations manager, and Jim Roys, financial services manager, presented an update on DEQ's 2011-13 legislative agenda. The agenda included the base budget, reduction options and budget policy packages that make up the Agency Request Budget and bills that the Oregon Legislature introduced in January.

Aldrich explained that the next revenue forecast will be in May, which will be the final forecast for the current biennium. He discussed the status of the current DEQ and state budget, legislative activities in this session, DEQ's reduction options and changes in funding levels and percentages. Roys discussed the

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Approved as presented

budget and financial developments for the current biennia and the 2011-13 biennia. He stated that DEQ should know by early May what its approved 2011-13 budget will be, and will then be able to develop its operating budget. Aldrich reviewed the bills, policy packages and legislative decisions for the 2011-13 biennium.

The commission discussed the information presented and asked clarifying and informational questions, to which Aldrich and Roys responded.

Chair Blosser adjourned the meeting at 11:20 a.m.

Remaining 2011 EQC meeting dates and locations

June 16-17: Eastern Region, Pendleton
August 18-19: Western Region, Corvallis (*tentative*)
October 20-21: Northwest Region, Astoria
December 15-16: Portland