

Cleaner Air Oregon Regulatory Reform Technical Workgroup

Technical Workgroup Charter

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State of Oregon
Department of
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Quality

Table of Contents

Background.....	3
Purpose.....	3
Scope of Work	4
Workgroup Structure	4
Roles.....	4
Facilitator	4
Workgroup Members	5
Non-Workgroup Attendees	5
DEQ Staff.....	5
DEQ Support and Website	6
Workgroup Meetings	6
Decision Making	7
Membership	7
Public Records and Confidentiality	7
Information Exchange.....	8
Public Involvement	8

Background

Oregon Department of Environmental Quality (DEQ) found levels of cadmium and arsenic in Southeast and North Portland above environmental risk thresholds. DEQ deployed an initial air monitor in Southeast Portland after a [U.S. Forest Service study](#) found heavy metals hotspots in local moss. The metals were linked to emissions from two local glass factories: Bullseye Glass and Uroboros Glass. After meeting with DEQ, the manufacturers agreed to suspend use of cadmium, arsenic and chromium.

DEQ and OHA have been taking steps to measure heavy metals in the environment and analyze the health risks they pose in an effort to reduce exposure for the community. For more information, please visit the Cleaner Air Oregon website at: <http://cleanerair.oregon.gov/>. One of those initial steps was to propose temporary rules for regulating art glass manufacturers in the Portland area, which the Environmental Quality Commission (EQC) adopted on April 21, 2016. However, DEQ and OHA realize the need to reform air toxics regulations for all industry sectors statewide.

On April 6, 2016, Governor Kate Brown announced the launch of Cleaner Air Oregon, a new initiative to reform industrial air toxics regulations and align them with public health. DEQ and OHA have begun a formal rulemaking process to engage the public in creating human health risk-based rules for industrial facilities, for consideration by the EQC. The technical workgroup is contributing to this rulemaking effort. The rulemaking process began in March 2016 and will include public input and comment.

There are several planned opportunities for public input on the rulemaking:

- DEQ will hold public policy forums in different areas of the state in September and October 2016
- DEQ will appoint an advisory committee to make recommendations on the proposed rules based on public comment, the technical workgroup's deliverables, and public policy forums. The advisory committee meetings are public meetings with time specified for public feedback, and will occur in October and November of 2016.
- A fiscal advisory committee will provide input on the fiscal impact statement and fee structure in February and April of 2017.

DEQ will seek public comment on the proposed rule from approximately May 15, 2017 through July 22, 2017. DEQ will consider all comments before preparing a final rule proposal for consideration by the EQC in December 2017. For a description of the timeline of public engagement activities related to this rulemaking, please visit the [Cleaner Air Oregon](#) website.

Purpose

The technical workgroup is being formed to provide an evaluation of other state's approaches to human health risk-based air toxics programs for industrial facilities, and answer technical questions in support of rulemaking, as requested by DEQ and OHA. The workgroup is tasked with providing focused and

specific input to help DEQ prepare policy issues for discussion at public policy forums and advisory committee meetings in the fall of 2016. The workgroup is not a decision-making body.

Scope of Work

Technical Discussion

The workgroup will discuss and provide an evaluation of human health risk-based air toxics programs for industrial facilities in other states, and discuss and evaluate key technical issues. The technical discussion will provide insights into different elements of other states' programs; describe strengths and limitations on key technical issues; identify general best practices; and highlight and inform policy discussions in areas where technical information and policy choices intersect. Topics may include evaluating issue papers on how other states have addressed:

- Facility scope and applicability
- Setting and administering acceptable risk levels
- Pollutant scope and setting concentration levels
- Screening and risk assessment
- Pollution prevention and toxics reduction

What Is Not in Scope

Policy and rules concepts will be discussed in public policy forums and by a separate DEQ advisory committee scheduled in fall 2016.

Workgroup Structure

- The meetings will be facilitated by a consultant
- The meetings will be chaired by Environmental Quality Commissioner Morgan Rider
- DEQ and OHA will staff the workgroup

Roles

Facilitator

The facilitator:

- Encourages open, candid and robust dialogue;
- Starts and ends the meetings and agenda items on time;
- Encourages innovation by listening to all ideas;

- Tries not to lose good ideas to the consensus process; and
- Recognizes when the discussion is outside the scope of the meeting and steers the discussion back to the focus of the meeting.

Workgroup Members

Workgroup members must attend each meeting to ensure continuity throughout the process.

1. Responsibilities of the Chair:

- Facilitate the conversation so the workgroup stays focused on the agenda and on intended outcomes of the meeting
- Ensure that all perspectives are heard
- Ensure that all members adhere to the process and ground rules
- Facilitate comments and input from the public

2. Responsibilities of the workgroup members:

- Attend all meetings to ensure continuity throughout the process
- Prepare for and set aside time for the meetings
- Provide DEQ and OHA staff with copies of relevant research and documentation cited during the meeting
- Stay focused on the specific topics for each meeting
- Comment constructively and in good faith
- Treat everyone with respect and assume good intentions when opinions differ
- Allow one person to speak at a time
- Be courteous by not engaging in sidebar discussions
- Avoid representing to the public or media the views of any other workgroup member or the workgroup as a whole

Non-Workgroup Attendees

Those who attend the workgroup meetings, but are not members of the workgroup are there only to observe and not to actively participate. DEQ will schedule time during the meeting for comments.

DEQ Staff

DEQ is committed to making the most effective use of committee member's time by:

- Establishing clear workgroup goals, meeting objectives and agendas;
- Giving workgroup members reasonable access to staff;
- Encouraging all members to take part in discussions; and

- Providing a clear description of members' roles, the workgroup timeline, the level of agreement expected and feedback on how members' input is used.

DEQ Support and Website

The DEQ project manager will post agenda and meeting materials so they are accessible through the cleanerair.oregon.gov website at least one week in advance. The facilitator will provide meeting summaries that highlight committee discussions, different perspectives and input of committee members. DEQ will not prepare a formal committee report. Meeting summaries will be posted to the workgroup website and will be part of the public record.

Workgroup Meetings

1. All workgroup meetings will be:
 - Open to the public;
 - Advertised on the Cleaner Air Oregon website;
 - Noticed to people who have signed up through GovDelivery to receive updates on the rulemaking;
 - Scheduled from 9:00 a.m. to 5:00 p.m. unless stated otherwise in the meeting agenda;
 - Held in Portland, Oregon; exact location to be announced;
 - The July meeting will be accessible to workgroup members via a call-in number and videoconference; and
 - Noticed on DEQ's Facebook/Twitter account.
2. Workgroup meetings will have time scheduled for public comment.
3. Meeting materials will be accessible through the Cleaner Air Oregon website.
4. DEQ will not prepare formal meeting minutes or a formal workgroup report. Meeting summaries, provided by the facilitator, will document the highlights of workgroup discussions, and the different perspectives and recommendations of workgroup members.
5. The technical workgroup will meet four times in Portland, Oregon on the following dates. The location will be announced prior to the meetings:
 - **June 29, 2016: 9 a.m. – 5 p.m.**
 - **June 30, 2016: 9 a.m. – 5 p.m.**
 - **July 27, 2016: 9 a.m. – 5 p.m.**
 - **July 28, 2016: 9 a.m. – 5 p.m.**

The meeting duration times above may vary depending on topics and workgroup progress.

Decision Making

1. DEQ and OHA will not seek consensus positions from the workgroup, nor will the workgroup be asked to vote on specific issues. DEQ and OHA will seek input and recommendations from each individual workgroup member.
2. The workgroup's discussions will be used by DEQ and OHA in preparing for policy discussions in the policy forums and advisory committee meetings planned for the fall of 2016. These will, in turn, inform DEQ and OHA in developing draft rules, which will then be proposed for broader public review and comment as part of DEQ's rulemaking process.

Membership

In convening this workgroup, DEQ and OHA selected members that have the experience and expertise to consider the technical issues of air toxics programs in other states. The workgroup will include representatives with the following experience or knowledge:

- Expertise on health impacts from hazardous air pollutants – toxicology
- Air pollution science or chemistry knowledge – how pollutants are dispersed and interact in the atmosphere
- Experience with California, Washington, or other state air toxics programs
- Have implemented or been involved in the implementation of an air toxics program
- Expertise in modeling for air toxics from industrial facilities
- Pollution prevention experience

A roster of the workgroup members can be accessed through the [Cleaner Air Oregon](#) website.

Travel Expenses

DEQ is able to reimburse any out-of-town committee members for travel expenses, if DEQ approves them in advance.

Public Records and Confidentiality

All workgroup records, formal and informal, become part of the rulemaking record. All DEQ rulemaking records are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during workgroup meetings.

DEQ captures and maintains workgroup agendas, meeting summaries, materials, workgroup reports and member recommendations. DEQ will destroy the workgroup record 10 years after Oregon repeals the related rules in accordance with public records retention schedules.

Information Exchange

Workgroup members will provide information as far in advance as possible of the meeting at which such information is used. The members will also share all relevant information with each other to the maximum extent possible. If a member believes the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it.

Public Involvement

All workgroup meetings will be open to the public and have time set aside for public comment.

In addition to the technical workgroup process, DEQ will hold public policy forums and appoint a policy advisory committee in order to conduct a public rulemaking process with broad public and stakeholder input. Individual workgroup members can participate in the public policy forums, or provide comments to DEQ on the full draft rule from approximately May 15, 2017 through July 22, 2017. DEQ's final rule proposal may be modified based on public comment. DEQ plans to take a final proposed rule to the EQC for consideration in December 2017.

Communications and Media Coverage

DEQ and OHA will respond to public or media inquiries associated with the organization, structure, process and goals for the Cleaner Air Oregon program and technical workgroup process. While free to communicate and share individual perspectives with the media and others, DEQ and OHA asks workgroup members to offer their personal viewpoint only, and to refrain from speaking for other workgroup members or the workgroup as a whole. We ask members to vet ideas and issues concerning the program at technical workgroup meetings before discussing them outside of the workgroup structure in order to preserve the cohesion of the team. When asked for information about the purpose or activities of the workgroup, DEQ and OHA asks you to refer requestors to the [Cleaner Air Oregon](#) website.

DEQ Contacts

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