



# Newsletter

## Environmental Connection

January – February 2012

### Contents

- 2012 Legislature: DEQ Boards Revamped and Other Bills
- DEQ Engages Stakeholders in Air Plan
- Governor to Hosts Energy Summit
- Governor Visits DEQ; Meets Staff
- Guv Budget Adds ALG to DEQ; Pay Raise to Employees
- Understanding Uintah Basin's Air Quality

Sponsored by the Utah Department of Environmental Quality

Donna Kemp Spangler, Editor

---

### ***2012 Legislature***

#### **DEQ Boards Revamped & Other Bills**

Details are still being worked out but discussions have centered on a duo of bills proposed by Sen. Margaret Dayton (R-Orem). A so-called "board bill" would remove the adjudicative role of the boards, transferring appealed permits to the DEQ executive director, shrink the now 13-to-11-member boards to nine members, and establish qualifications and standards.

"DEQ supports the concept that environmental boards be utilized to vet critical issues and provide meaningful oversight to the Divisions. Removing the adjudicatory function from the boards will accomplish that goal," said Amanda Smith, executive director of DEQ.

Another somewhat-related piece of legislation involves the adjudicative procedures on permit review proceedings. The proposed bill would require issues to be raised during the public comment period in order to qualify for consideration during the appeal. This is intended to avoid long-delayed decisions when appellants try to introduce new objections that were not part of the public record.

DEQ and its stakeholders came together to hammer out a solution. In the end, the group recognized that boards play a critical role for the state and that five boards are the appropriate number, given the diversity of issues and workload.

"Each year there is legislation that would change the membership and authority of DEQ boards," said Smith. "To address the concerns of some legislators and stakeholders, we invited a balanced group of stakeholders to analyze the current process and come up with recommendations to improve the board's function and process."

The group proposed changes lawmakers liked. In November, the Natural Resources, Agriculture and Environment Interim Committee approved a committee bill that could face further changes during the session.

Other possible bills in the making:

Rep. John Dougall (R-Highland) may introduce legislation to relax emissions testing requirements eliminating the need for newer vehicles to undergo emissions testing. Passage of the bill would affect the Division of Air Quality's State Implementation Plan.

Rep. Ronda Rudd Menlove (R-Garland) may introduce legislation that changes the fee structure on mixed waste.

Two potential bills involving the underground storage tank program. One would remove the requirement for the state Risk Manager to recommend fee changes for the Petroleum Storage Tank fund and another would flag non-compliance storage tanks with a red tag.

Rep. Neal Hendrickson (D-West Valley) may try his hand again at legislation that would increase the waste tire recycling fee for certain tires.

---

## **DEQ Engages Stakeholders in Air Plan**

Division of Air Quality (DAQ) has been meeting with stakeholders from six counties throughout the year to develop strategies to solve Utah's winter particulate pollution problem, known as PM2.5.

The county workgroups—Box Elder/Weber, Cache, Davis, Salt Lake, Tooele, and Utah—were established as part of the State Implementation Plan for PM2.5 that DAQ is spearheading. Representatives from agriculture, academia, environmental groups, elected officials, industry, and the public are participating.

The process is the first of its kind for DAQ, designed to be transparent and include public health and business interests impacted by air quality issues.

"There have been a few bumps in the road along the way, but far and wide this process has been successful in bringing together diverse groups of stakeholders that have given DAQ a number of good ideas going forward," said DAQ's modeling section manager Patrick Barickman.

Workgroup participants have been instrumental in helping DAQ refine information and analyze strategies that will bring wintertime PM2.5 levels within federal standards. In fact, workgroup strategies preliminarily modeled by DAQ demonstrated significant pollutant reductions in some areas—a good first step in helping achieve the federal standards.

"Decisions will be made at the end of this process and it is better for the interests involved to be at the table with other stakeholders" said Paul Glauser, who represents the Small Business Compliance Advisory Panel on the Box Elder/Weber workgroup. "This process is an opportunity to educate companies on good business practices."

The next round of stakeholder meetings will take place in March with the final round of meetings scheduled for April. The April meetings will involve both the public and stakeholders and will be a first chance for the public to learn about how the strategies were selected and which will be forwarded to the Air Quality Board for approval in the SIP.

In the meantime, modeling and strategy development and refinement will continue taking place.

"This process had brought a greater understanding and appreciation for the complexity of solving our PM2.5 problem," Barickman said. "We appreciate the hard work that the stakeholders have put in to making the SIP reflective of local solutions to local problems."

Get more information about the process.

This article was written by Stacey Adams, environmental planning consultant with DEQ's Office of Planning and Public Affairs.

---

## **Governor to Hosts Energy Summit**

Governor Gary Herbert plans to host the state's first ever Governor's Energy Development Summit on February 15 at the Salt Palace Convention Center. With an expected 800 people in attendance, the Summit will focus on all forms of energy development, including the development of conventional energy and renewable resources.

"Given the importance of energy to Utah's economy and environment, this is an exciting opportunity to learn more about the state's future energy needs," said Amanda Smith, executive director of the Utah Department of Environmental Quality and Energy Advisor for Governor Herbert.

All forms of energy production will be addressed at the same event, added Samantha Mary Julian, manager of the Utah Office of Energy and Development. Julian and her staff are working around-the-clock to bring in top-notch energy experts and entrepreneurs.

"In times past, discussion of conventional energy development, including the mining and extraction of natural resources, has been held apart from discussion of development of renewable and energy efficiency resources," Julian said. "This is partially due to the fact that Utah will be reliant upon conventional energy sources for most of its energy production for the foreseeable future, as 98.5 percent comes from these sources. However, continuing the development of renewable resources and energy efficiency provides an opportunity to increase Utah's energy production, create more jobs for the state and ensure that Utah will continue to be an energy exporting state for years to come."

This new, balanced approach comes under the guidance of the State's 10-Year Strategic Energy Plan. The Summit will feature presentations and round table discussions that support the goals of the Energy Plan. Energy experts will outline how Utah can lead the nation in the development of traditional, alternative and renewable energy resources. Panel discussions will address how diversification of Utah's energy portfolio will provide affordable, sustainable, and secure energy now and in the future. Industry representatives will discuss the potential for job growth, manufacturing expansion, and new enterprise development that will arise from the expansion and continued growth of Utah's energy sector.

Visit Utah Office of Energy Development for more information on the event including speakers, topics and registration details.

---

### **Governor Visits DEQ; Meets Staff**

Governor Gary Herbert caught a glimpse of what the Department of Environmental Quality (DEQ) staff tackles on an average day during a brief visit to DEQ on Dec 16.

The Governor's much—anticipated visit was limited to less than two hours due to a busy schedule. He, however, did have a chance to walk through the Division of Air Quality (DAQ), greeting employees and talking to them about air quality monitoring to better understand challenges Utah faces to meet federal health standards.

Air quality dominated discussions when Governor Herbert met with Division Directors before the tour. DAQ is working with stakeholders to meet federal health standards for particulate pollution (PM 2.5) and trying to figure out why ozone levels in the Uintah Basin are unusually high during the winter (see related story). Overall, Utah's air is cleaner today than it was decades ago, reassured Bryce Bird, director of DAQ.

Energy—a cornerstone of Herbert's administration—was given some attention as Herbert wanted to know more about fracking and its impact on water. Fracking is an industry process in which water and toxic chemicals are injected at high pressure into the ground to break up rocks and release the gas and oil deposits. Industry spokespeople have said for years that, because it is done thousands of feet below aquifers, the chemicals pose no risk to drinking water. DEQ is working with stakeholders and other agencies such as the Department of Natural Resources' Division of Oil, Gas, and Mining to study the issues.

Amanda Smith, executive director of DEQ, was pleased with the visit.

"Governor Herbert was able to spend about an hour and half talking with Division Directors and asking questions about our work here at DEQ. He was very impressed with our work and complimentary of our staff," she said.

---

### **Guv Budget Adds ALJ to DEQ; Pay Raise to Employees**

The Department of Environmental Quality (DEQ) would receive an additional \$250,000 to hire an administrative law judge (ALJ) under Governor Gary Herbert's proposed \$12.9 billion spending plan for 2012-13.

Also included in the Governor's budget is the ability to transfer \$400,000 from the Environmental Quality Restricted Account to the Hazardous Substances Mitigation Fund—which provides a 10 percent state match for Superfund cleanups.

Herbert also seeks a 1 percent pay raise to state employees, the first cost-of-living increase in five years.

"I'm very pleased with the Governor's budget. He focused on his four cornerstones, which included \$700,000 for the Office of Energy Development," said Amanda Smith, executive director of DEQ who also serves as the Governor's Energy Advisor.

An increase in the number of permit appeals has prompted the need for an administrative law judge, a duty assigned to the assistant attorneys at the Attorney General's (AG) Office. An ALJ would serve a key function under a proposed bill that removes the adjudicatory function from DEQ's regulatory boards (see Legislature article).

"An administrative law judge would help remove any legal roadblocks and improve efficiencies within the Department," said Smith. "It means we can free up our assistant AGs to focus on the environmental legal work at hand."

Herbert's proposed budget includes the ongoing General Fund money that the Legislature approved in 2011—the \$200,000 to continue to proactively address air quality issues in the Uintah Basin and \$110,000 to provide the Division of Radiation Control additional resources to effectively register and complete inspections leading to a lower risk of radiation exposure to the public.

Governor Herbert unveiled his spending plan on Dec. 12, highlighting a budget proposal that includes an increase of more than \$134 million for Utah's public schools and universities.

"I am pleased with what I see on Utah's economic horizon," Herbert wrote in his budget message. "The largest economic downturn since the Great Depression has subsided and Utah is poised to lead the nation into recovery. Revenues are projected to continue to grow in FY 2013, and we are seeing encouraging signs in many areas of the State's economy."

The Legislature will finalize the 2013 fiscal year budget—which runs from July 1, 2012 to June 30 2013—when it meets in a 45-day session Jan. 23.

---

## **Understanding Uintah Basin's Air Quality**

Most of the time air quality in the Uintah Basin is good, but winter inversions can cause high levels of air pollution to build up and that impacts people's health and the local economy.

Scientists are pinpointing ozone as the primary problem, which is unusual since ozone is typically a summertime pollutant formed when temperatures are high and sunlight bright. This happens because ozone is not emitted directly into the atmosphere but is formed when chemical reactions between oxides of nitrogen and organic compounds take place during times of high sunshine. Yet this past winter data collected at air monitors throughout the Basin recorded the highest ozone levels in the state.

"The Basin's situation is unique because you don't typically find ozone during the winter in rural areas," said Brock LeBaron, deputy director of the Division of Air Quality (DAQ). DAQ and a team of researchers have embarked on a collaborate effort—the biggest air quality study ever—to look into this mystery. An expansive, cooperative study is under way to understand the chemical reactions unique to the Basin during the winter.

In the meantime, Uintah Basin residents can protect themselves on high-ozone days by finding air-quality alerts on DAQ's Web.

Not everyone will feel the impacts from ozone, but it causes health problems that can damage the lungs and lead to temporary, uncomfortable shortness of breath and coughing. It can be especially harmful to children, older adults and people with heart and lung diseases. The best way to protect health is to avoid exercising outside during peak ozone times.

Poor air quality is also an economic issue. The Uintah Basin is rich in oil and gas production that help fuel the local economy. Federal air quality standards are set to protect public health from high levels of pollution. If these standards are exceeded enough times, federal and state regulations may prompt mandatory emission-reduction measures that impact industry.

Local and state officials are hoping to avoid that by working together to come up with a solution.

Understanding the issue is an important step. DEQ has teamed up with the Tri-County Health Department, Western Energy Alliance, and Uintah and Duchesne County commissions to embark on a public education campaign that includes newspaper articles that focus on how to use DAQ's 3-day pollution forecasts and hourly ozone levels, suggestions on what the public and industry can do to help keep air pollution within the federal health standards.

"Federal regulations, health risks and economic consequences are associated with dirty air," said Steve Packham, toxicologist with DAQ. "Cleaner air, fewer respiratory illnesses, and self-determination free of government regulations can be achieved through cooperation and a commitment to take responsibility for keeping the air we breathe clean."

For tips about how individuals can improve air quality.