


State of Oregon  
Department of Environmental Quality

Memorandum

---

**Date:** Jan. 8, 2018

**To:** Environmental Quality Commission

**From:** Richard Whitman, Director 

**Subject:** Agenda item D, Action item: Recommendations for public engagement at commission meetings  
Jan. 18-19, 2018, EQC meeting

**Why this is important** Commissioners have expressed interest in evaluating the commission's meeting processes and protocols to foster increased engagement with Oregonians. DEQ staff, at the direction of the commission, researched public comment formats and mechanisms used by other state boards and commissions.

**Background** The Environmental Quality Commission's past practice has been to not take public comment on specific agenda items that come before it. The commission does, however, set a specific agenda item and time for public comment at each regular meeting. During that time, a person may present comment on any matter, other than rulemakings and contested cases.

This practice has led to frustration on all parts. By not allowing public comment on agenda items at the time they are heard by the commission, DEQ is limiting the ability of the public to engage the commission. In some matters, such as contested cases, where only parties are allowed to participate, and rulemakings, where the record is usually closed prior to the commission meeting, there are legal reasons for not allowing public engagement. But on informational items and many action items there is no legal reason for not allowing public comment.

**Commission options for public comment** The commission may modify its processes, meeting structure and protocols, provided that the changes do not violate public meeting law, commission rules, or Oregon Administrative Procedures Act requirements.

The EQC may:

1. Keep its current process, allowing comment only during a set time on each agenda;
2. Modify its process, to add of topic-specific public comment in conjunction with each scheduled item (where doing so does not violate a legal requirement), in addition to the current agenda item for public

- comment on items that are not otherwise on the agenda;
3. Allow public comment only on specified agenda items, as identified by the chair in advance (as the agenda is developed in consultation with the department), and drop or shorten the general public comment period; or
  4. Adopt other practices, so long as they are within the confines of legal requirements.

**Practices of  
other Boards  
and  
Commissions**

The Board of Forestry and Land Conservation and Development Commission use an item-specific public comment structure, with additional time for unscheduled items, as described in option two, above. These bodies have regulatory authorities similar to EQC's role and responsibilities. Recent agendas for the Board of Forestry and Land Conservation and Development Commission are attached to this report for reference.

The Oregon Transportation Commission, the Oregon Fish and Wildlife Commission, and the Oregon Water Resources Commission all have a set comment time similar to public forum, and also allow item-specific comments, *as time allows*, typically limited to three minutes per person.

- OTC site: [http://www.oregon.gov/ODOT/Get-Involved/Pages/OTC\\_Main.aspx](http://www.oregon.gov/ODOT/Get-Involved/Pages/OTC_Main.aspx)
- ODFW: <http://www.dfw.state.or.us/agency/commission/procedures.asp>
- OWRD: [http://apps.wrd.state.or.us/apps/misc/wrd\\_notice\\_view/Default.aspx?notice\\_id=22](http://apps.wrd.state.or.us/apps/misc/wrd_notice_view/Default.aspx?notice_id=22)

**DEQ  
recommendation**

DEQ recommends that the Oregon Environmental Quality Commission modify the structure of EQC meeting agendas to allow topic-specific public comment after each item, except for contested cases, rulemakings, executive session items, and other items identified by the commission chair, with an additional period of 30 minutes for subjects not already on the agenda. The department recommends that this practice begin with the March 2018 EQC regular meeting to allow for notice of the new process.

DEQ also recommends that the commission direct DEQ staff to consult with the Oregon Department of Justice regarding the modifications and notice of the meetings to ensure all public meeting laws and administrative requirements are met.

**Effect of  
proposed  
changes**

If the commission chooses to modify its agendas and practices to allow comment on items at various times throughout its meeting, there will be adjustments necessary to agenda development and planning. Specifically, staff will design agendas to accommodate the additional time needed for the inclusion of the item-specific comment periods. Some items of exceptional

Action item: Public comment process at commission meetings  
Jan. 18-19, 2018, EQC meeting  
Page 3 of 3

public interest or controversy may need longer comment times, as demonstrated for the comment time held after item O on the sample agenda in attachment A.

Staff will work with the commission, or commission chair, to develop agendas that can successfully support better engagement with Oregonians and ensure the commission can complete its necessary business during any meeting.

**Attachments**      A. Example agendas from September and November 2017 EQC meetings, with item-specific comment periods included

Report prepared by Stephanie Caldera  
*Commission assistant*



State of Oregon Department of Environmental Quality

# Agenda: Oregon Environmental Quality Commission meeting

394<sup>th</sup> regular meeting

*Meeting venue: DEQ's Bend office (425 NE Bellevue Drive, Bend)*

*Wednesday town hall: Comfort Inn and Suites (62065 SE 27th St., Bend)*

**Wednesday, Sept. 13, 2017: 8 a.m. to 5 p.m.; evening town hall session 5:30 to 6:30 p.m.**

<b>8 a.m.</b> <b>Four</b> <b>hours,</b> <b>including</b> <b>travel time</b>	<b>A. Tour</b> Commissioners and DEQ staff will visit the City of Prineville for a tour of the Crooked River Wetland Complex. <ul style="list-style-type: none"><li>• Presenters: Linda Hayes-Gorman (DEQ), Mayor Betty Roppe, City Manager Steve Forrester and Public Works Director Eric Klann</li></ul>
<b>Noon</b>	<b>Lunch recess</b>
<b>1 p.m.</b> <b>5 min</b>	<b>B. Action item: Meeting minutes</b> Commissioners will take action on the proposed draft minutes from recent EQC meetings.
<b>1:05 p.m.</b> <b>45 min</b>	<b>C. Informational item: Water Quality Permitting Program updates</b> DEQ will present updates on the progress of the Water Quality Permitting Program improvement project. <ul style="list-style-type: none"><li>• Presenter: Keith Andersen</li></ul>
<b>1:50 p.m.</b> <b>10 min</b>	<b>Time held for comment: Item C</b> The commission will hold time for public comments specific to the information presented during item C.  <i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i>
<b>2 p.m.</b> <b>60 min</b>	<b>D. Action item: Water Quality Program fee rule proposal</b> DEQ will propose updates to fees for some Water Quality Program permits. <ul style="list-style-type: none"><li>• Presenters: Ron Doughten, William Knight, Adam Coutu and Mike Kucinski</li></ul>
<b>3 p.m.</b> <b>15 min</b>	<b>Break</b>
<b>3:15 p.m.</b> <b>50 min</b>	<b>E. Informational item: Budget and Legislative updates</b>

**Please note:** Times and order of the agenda are subject to change.

Item D 000004

	<p>DEQ staff will present updates on agency, state and federal budget and legislative matters of interest to the commission, including updated agency budget information.</p> <ul style="list-style-type: none"> <li>• Presenters: Mark Brown, Abby Boudouris and Matt Davis</li> </ul>
<p><b>4:05 p.m.</b>  <b>10 min</b></p>	<p><b>Time held for comment: Item E</b></p> <p>The commission will hold time for public comments specific to the information presented during item E.</p> <p><i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i></p>
<p><b>4:15 p.m.</b>  <b>10 min</b></p>	<p><b>F1. Action item: Bond sale authorization</b></p> <p>DEQ staff will present a request for commission authorization related to a bond sale to support the ongoing work of the Cleanup Orphan Site Program.</p> <ul style="list-style-type: none"> <li>• Presenter: Mark Brown</li> </ul>
<p><b>4:25 p.m.</b>  <b>5 min</b></p>	<p><b>F. Action item: Budget certification</b></p> <p>DEQ staff will present the agency's 2017-19 Legislatively Adopted Budget for commission review and approval. The presiding officer of the commission will be asked to sign the budget submittal to indicate the commission's certification of the materials.</p> <ul style="list-style-type: none"> <li>• Presenter: Mark Brown</li> </ul>
<p><b>4:30 p.m.</b>  <b>30 min</b></p>	<p><b>G. Commissioner reports and meeting planning</b></p> <p>The commissioners will provide verbal updates on their recent activities of interest to the commission. DEQ may present draft planning ideas for future commission meetings as part of this item.</p> <ul style="list-style-type: none"> <li>• Presenter: Director Whitman</li> </ul>
<p><b>5 p.m.</b></p>	<p><b><i>Recess until 8:30 a.m. on Thursday, Sept. 14, 2017</i></b></p>
<p><b>5:30 p.m.</b></p>	<p><b>Town hall: Comfort Inn and Suites, Bend</b></p> <p>The commission and some DEQ staff will host an evening town hall from 5:30 to 6:30 p.m. This session is informal, and provides commissioners the opportunity to meet with local residents and discuss environmental issues, concerns and success stories. All are welcome, and light refreshments will be provided</p>

*Following the town hall, some commissioners and staff may attend an informal and optional social dinner. No commission business will be conducted at dinner.*

**Please note:** Times and order of the agenda are subject to change.

Item D 000005

**Thursday, Sept. 14, 2017: 8:30 a.m. to 5 p.m.**

<b>8:30 a.m. 30 min</b>	<p><b>H. Public forum</b>  The commissioners will open a thirty-minute public comment opportunity. People may provide comment in-person at the meeting or by toll-free telephone conference line.</p> <p>Any person may use the telephone conference line to listen to this item. The item will be moderated by a telephone operator, who will provide instruction during the item on how listeners may request to provide comment.</p> <p>When presenting comment, either in person or by phone, all people will be asked to state their name for official record-keeping purposes.</p> <p><i>Please limit comments to three minutes or less. The commission may shorten this limit if a large number of people sign up to provide comment.</i></p>
<b>9 a.m. 60 min</b>	<p><b>I. Informational item: Director's report</b>  Director Whitman will provide written and verbal updates on state, regional and national issues of interest to the commission.</p> <ul style="list-style-type: none"> <li>• Presenter: Director Whitman</li> </ul>
<b>10 a.m. 10 min</b>	<p><b>Time held for comment: Item I</b>  The commission will hold time for public comments specific to the information presented during item I.</p> <p><i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i></p>
<b>10:10 a.m. 15 min</b>	<p><i>Break</i></p>
<b>10:25 a.m. 40 min</b>	<p><b>J. Informational item: EDMS updates</b>  DEQ staff will present updates on the current status for the agency's Electronic Data Management System project.</p> <ul style="list-style-type: none"> <li>• Presenter: Clint Bollinger (by web video conference)</li> </ul>
<b>11:05 a.m. 10 min</b>	<p><b>Time held for comment: Item J</b>  The commission will hold time for public comments specific to the information presented during item J.</p> <p><i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i></p>
<b>11:15 a.m. 30 min</b>	<p><b>K. Informational item: Smoke management and wildfire response</b>  DEQ staff will co-present with representatives from the Oregon Department of Forestry and the Oregon Health Authority on the state's smoke management responsibilities and wildfire responses.</p>

***Please note:*** Times and order of the agenda are subject to change.

Item D 000006

	<ul style="list-style-type: none"> <li>Presenters: David Collier and Greg Svelund (DEQ); Doug Grafe and Peter Brewer (ODF); and Kristen Aird (OHA)</li> </ul>
<b>11:45</b> <b>10 min</b>	<b>Time held for comment: Item K</b> The commission will hold time for public comments specific to the information presented during item K.  <i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i>
<b>11:55 a.m.</b> <b>80 min</b>	<b>Working lunch and executive session</b> The commissioners, some DEQ staff and Oregon Department of Justice staff will meet for an executive session over a working lunch. This executive session is held under the authority of ORS 192.660(2)(h).
-	<i>Item L has been removed from the agenda</i>
<b>1:15 p.m.</b> <b>80 min</b>	<b><i>This item will be taken out of order</i></b> <b>O. Informational item: Cleaner Air Oregon updates</b> DEQ staff will provide updates on the Cleaner Air Oregon project, including known timelines, opportunities for commissioner involvement and initial draft proposed rule language. <ul style="list-style-type: none"> <li>Presenters: Keith Johnson and Joe Westersund</li> </ul>
<b>2:35 p.m.</b> <b>30 min</b>	<b>Time held for comment: Item O</b> The commission will hold time for public comments specific to the information presented during item O.  <i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i>
<b>3:05 p.m.</b> <b>15 min</b>	<i>Break</i>
<b>3:20 p.m.</b> <b>30 min</b>	<b>M. Informational item: DEQ processes for public comment and permit decisions</b> DEQ staff will present general information about the processes and mechanisms the agency uses to solicit, review and respond to public comment for agency matters. Staff will also discuss the process used for agency decisions regarding permit review, issuance, renewals, denials or revocations. <ul style="list-style-type: none"> <li>Presenters: Linda Hayes-Gorman and Lissa Druback</li> </ul>
<b>3:50 p.m.</b> <b>10 min</b>	<b>Time held for comment: Item M</b> The commission will hold time for public comments specific to the information presented during item M.  <i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i>

**Please note:** Times and order of the agenda are subject to change.

Item D 000007

-	<i>Item N has been removed from the agenda</i>
<b>4 p.m.</b>	<b>Adjourn</b>

### **Instructions for topic-specific comment**

Informational items are immediately followed by an opportunity for public comment on that item. If you would like to present topic-specific comment, please sign in on the Comment Registration Sheet, found on the table at the entrance to the meeting. People are asked to limit their comments to three minutes or less for any item.

### **Instructions for Public Forum**

Comments during Public Forum may be on any topic, with several important limitations. The commission cannot accept comments on:

- A pending contested case hearing
- Proposed rules for which a comment period was held and has closed
- Other items as directed by the commission's legal counsel

To present comments during Public Forum, please complete a registration form, found under the appropriate agenda item marker on the meeting materials table, and provide it to the commission assistant. Comments will be heard in the order the forms are received. People are asked to limit their comments to three minutes or less.

***Please note: Times and order of the agenda are subject to change.***

Item D 000008





State of Oregon Department of Environmental Quality

# Agenda: Oregon Environmental Quality Commission meeting

## 395<sup>th</sup> regular meeting

Nov. 2 and 3, 2017

Meeting venues: Valley River Inn (Thursday); Hilton Eugene (Friday)

### Thursday, Nov. 2, 2017: 8 a.m. to 5 p.m.

- This day is held jointly with the Oregon Board of Forestry at The Valley River Inn, 1000 Valley River Way

8 a.m. 30 min	<b>Welcome and overview</b>
8:30 a.m. 60 min	<b>A. Informational item: EQC and BOF areas of shared interest and oversight</b> DEQ and Oregon Department of Forestry staff will present to the combined EQC and Board of Forestry regarding topics for which the two bodies have a shared interest or co-oversight. These topics include, but are not limited to, smoke management and water quality concerns. <ul style="list-style-type: none"><li>• <i>Presenters: TBD</i></li></ul>
9:30 a.m. 15 min	<b>Time held for comment: Item A</b> The commission will hold time for public comments specific to the information presented during item A.  <i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i>
9:45 a.m. 6 hours (includes lunch)	<b>B. Tour</b> Commissioners and DEQ staff will accompany the Board of Forestry on a tour of projects in the Eugene area which address smoke management, riparian and other forest land issues. <ul style="list-style-type: none"><li>• <i>Presenters: TBD</i></li></ul>
3:45 p.m. 60 min	<b>C. Discussion item: Tour debrief and next steps</b> EQC and Board of Forestry will discuss their day's tour and provide feedback and direction to DEQ and ODF for next steps the agencies, and commission or board, can take regarding the issues discussed and expected future concerns for Oregon's forested lands.
4:45 p.m.	<b>Recess until 8:30 a.m. on Friday, Nov. 3, 2017</b>

**Please note:** Times and order of the agenda are subject to change.

Item D 000009



State of Oregon Department of Environmental Quality

# Agenda: Oregon Environmental Quality Commission meeting

## 395<sup>th</sup> regular meeting

**Friday, Nov. 3, 2017: 8:30 a.m. to 5 p.m.**

- *Williams Room, Hilton Eugene: 66 East 6<sup>th</sup> Avenue (downtown Eugene)*

<b>8:30 a.m. 5 min</b>	<b>D. Action item: Meeting minutes</b> Commissioners will take action on the proposed draft minutes from recent EQC meetings.
<b>8:35 a.m. 30 min</b>	<b>E. Informational item: Legislative updates</b> DEQ staff will present updates on agency, state and federal budget and legislative matters of interest to the commission. <ul style="list-style-type: none"><li>• Presenters: Karen Tarnow and Matt Davis</li></ul>
<b>9:05 10 min</b>	<b>Time held for comment: Item E</b> The commission will hold time for public comments specific to the information presented during item E.  <i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i>
<b>9:15 a.m. 45 min</b>	<b>F. Action item: Clean Water State Revolving Fund rule proposals</b> DEQ staff will present proposed updates and rule changes for the Clean Water State Revolving Fund Loan Program. This program provides low-interest loans to qualified entities to construct wastewater and stormwater infrastructure, nonpoint source pollution controls and National Estuary water quality improvement projects across the state. <ul style="list-style-type: none"><li>• Presenters: Anita Yap and Lee Ann Lawrence</li></ul>
<b>10 a.m. 60 min</b>	<b>G. Informational item: Cleaner Air Oregon</b> DEQ staff will present informational updates on the status and timeline of the Cleaner Air Oregon rule and program proposal development. Staff may also present a summary of the content of the proposed draft rules, issued October 13. <ul style="list-style-type: none"><li>• Presenters: Keith Johnson with co-presenters from the Oregon Health Authority</li></ul> <b>Note:</b> People may listen in to this item using a toll-free telephone conference line. All callers will have their lines muted throughout this item.  <b>Conference line:</b> 800-700-7784 <b>Participant code:</b> 432786 #

***Please note:*** Times and order of the agenda are subject to change.

Item D 000010

<b>11 a.m. 15 min</b>	<p><b>Time held for comment: Item G</b></p> <p>The commission will hold time for public comments specific to the information presented during item G.</p> <p><i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i></p>
<b>11:15 a.m. 60 min</b>	<p><b>H. Public forum</b></p> <p>The commissioners will open a public comment opportunity for any general topics. People may provide comment in-person at the meeting or by toll-free telephone conference line.</p> <p>When presenting comment, either in person or by phone, all people will be asked to state their name for official record-keeping purposes and limit comments to three minutes or less.</p> <p>People may listen in or present comments during this item using a toll-free telephone conference line. A third-party operator will moderate the call, and will provide directions on how to enter the speakers' queue. All participants will have their lines muted unless they are the current speaker.</p> <p><b>Conference line:</b> 800-700-7784  <b>Participant code:</b> 432786 #</p> <p><i>All times subject to change based on commission needs and the number of people signed up to present comment.</i></p>
<b>12:15 p.m. 90 min</b>	<p><b>I. Working lunch and executive session</b></p> <p>The commissioners, DEQ staff and Oregon Department of Justice staff will meet for an executive session over a working lunch. This executive session is held under the authority of ORS 192.660(2)(h).</p>
-	<i>Item J was removed from the agenda</i>
<b>1:45 p.m. 60 min</b>	<p><b>K. Action item: Clean Fuels Program rule proposals</b></p> <p>DEQ staff will propose changes and updates to elements of the Clean Fuels Program. The program helps Oregon accomplish its greenhouse gas emissions reduction goals by requiring fuel suppliers to provide the state with fuel blends that have a reduced carbon footprint.</p> <ul style="list-style-type: none"> <li>• Presenters: Cory-Ann Wind and Bill Peters</li> </ul>
<b>2:45 p.m. 60 min</b>	<p><b>L. Informational item: Director's report</b></p> <p>Director Whitman will provide written and verbal updates on state, regional and national issues of interest to the commission.</p> <ul style="list-style-type: none"> <li>• Presenter: Director Whitman</li> </ul>

**Please note:** Times and order of the agenda are subject to change.

Item D 000011

<b>3:45 p.m. 10 min</b>	<b>Time held for comment: Item L</b> The commission will hold time for public comments specific to the information presented during item L.  <i>People who wish to present comments must sign in on the registration sheet at the entrance to the meeting space.</i>
<b>3:55 p.m. 5 min</b>	<i>The commission will recess for a short break</i>
<b>4 p.m. 45 min</b>	<b>M. Action item: Commission process for public comment at EQC meetings</b> The commission will discuss its preference for mechanisms to allow public comment at regular EQC meetings, based on DEQ staff recommendations <ul style="list-style-type: none"> <li>• Presenter: Director Whitman</li> </ul>
<b>4:45 p.m. 15 min</b>	<b>N. Commissioner reports</b> The commissioners will provide verbal updates on their recent activities of interest to the commission.
<b>5 p.m.</b>	<b>Adjourn</b>

### Instructions for topic-specific comment

Informational items are immediately followed by an opportunity for public comment on that item. If you would like to present topic-specific comment, please sign in on the Comment Registration Sheet, found on the table at the entrance to the meeting. People are asked to limit their comments to three minutes or less for any item.

### Instructions for Public Forum

Comments during Public Forum may be on any topic, with several important limitations. The commission cannot accept comments on:

- A pending contested case hearing
- Proposed rules for which a comment period was held and has closed
- Other items as directed by the commission's legal counsel

To present comments during Public Forum, please complete a registration form, found under the appropriate agenda item marker on the meeting materials table, and provide it to the commission assistant. Comments will be heard in the order the forms are received. People are asked to limit their comments to three minutes or less.

**Please note:** *Times and order of the agenda are subject to change.*

Item D 000012