

Meeting notes of the 381st regular meeting of the Oregon Environmental Quality Commission

Jan. 7-8, 2015
Portland, Oregon
DEQ's headquarters: 811 SW 6th Avenue
Conference room EQC-A on the 10th floor

Wednesday, January 7 – 8:30 a.m. to 4:30 p.m.

Chair O'Keeffe convened the meeting at 8:30 a.m.

Present: Chair O'Keeffe, Vice-chair Armstrong, Commissioner Rider, Commissioner Johnson and Commissioner Eden

A. Action item: Draft meeting minutes from November 2014

The commission reviewed the draft meeting minutes from the Nov. 5- 7, 2014, regular and Nov. 20, 2014, special EQC meetings.

Action: Approve the draft meeting minutes from Nov. 5-7, 2014, and Nov. 20, 2014, EQC meetings.

Move: Vice-chair Armstrong

Second: Commissioner Johnson

The commission unanimously approved the meeting minutes from Nov. 5-7, 2014, and Nov. 20, 2014, as presented.

B. Action item: Proposed revisions to the water quality standards for ammonia

Debra Sturdevant, water quality manager, and Andrea Matzke, water quality standards specialist, presented proposed revisions to the water quality standards for ammonia, in response to EPA's disapproval of the prior ammonia value in Oregon's standards for water quality toxics. Matzke described the proposed revisions and the process associated with the changes.

The commission asked clarifying and informational questions about the proposed revisions.

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

Move: Commissioner Johnson

Second: Commissioner Eden

The commission unanimously approved the rule revisions.

This item taken out of order

J. Action item: Bond sale authorization

Jim Roys, Financial Services manager, presented a request for commission authorization for DEQ to solicit a state bond sale to support the Clean Water Act State Revolving Fund Loan Program. Roys described the financial context related to the bond and provided additional detail about the potential bond sale and the use of its funds.

Action: Adopt the resolution in attachment A of the item to authorize DEQ to request and the state treasurer to sell \$10 million in bonds for Clean Water State Revolving Fund matching funds during the 2013-15 biennium.

Move: Commissioner Eden

Second: Commissioner Johnson

The commission unanimously approved the resolution.

Following the commission's action, Roys recommended that the commission direct DEQ to no longer require formal commission action to authorize bond sales for the agency. He recommended that DEQ inform the commission of any bond sales as part of regular informational items. Roys explained that state law no longer requires DEQ to request authorization from the commission to solicit a bond sale and the recommendation reflects that change in law and administrative process. The commission asked clarifying and informational questions about the proposal and discussed their options for future involvement with any bond sale items. The commission expressed a preference to keep the formal resolution process in place for future bond sales and make no change at this time.

This item taken out of order

K. Informational item: Budget and legislative updates

Jim Roys, Financial Services manager, Greg Aldrich, Office of Policy and Analysis manager, and Palmer Mason, agency legislative manager, presented updates on the 2015-17 agency budget process, state and federal budget information and state and federal legislative matters of interest to the commission.

The commissioners asked clarifying and informational questions about the budget information and provided feedback on the proposed budget.

This item taken out of order

L. Action item: Budget certification

Jim Roys, Financial Services manager, presented updated 2015-17 budget materials for the commission's review and approval. He noted that the commission chair must certify all budget materials before DEQ can submit them to the Oregon Department of Administrative Services.

Action: Authorize Chair O'Keeffe to sign and certify the DEQ 2015-17 Governor's Recommended Budget on behalf of the commission.

Move: Vice-chair Armstrong

Second: Commissioner Rider

The commission unanimously approved the action.

Lunch

Chair O’Keeffe recessed the commission for lunch from 11:30 a.m. to 12:30 p.m.

D. Action item: Proposed fee increase for Title V permits

Leah Feldon, interim air quality manager, and Jerry Ebersole, hazardous air pollutant analyst, presented a proposed fee increase for Air Quality Title V Permits, based on the 2014 Consumer Price Index increases. Ebersole noted that the proposed 1.6 percent fee increase is the second of a two-phase revision as a cost-saving measure and administrative efficiency, and that the proposed fee increases will support the program through 2015.

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

Move: Commissioner Johnson

Second: Vice-chair Armstrong

The commission unanimously approved the action.

Following the commission action, Commissioner Rider asked about the status on permits, including if there was any backlog. Staff will provide that information after verifying permit data.

E. Informational item: Air quality program updates

Leah Feldon, interim air quality manager, introduced the item and noted that the rulemaking package will be brought for commission action in April. Jill Inahara, environmental engineer, and George Davis, air quality permitting specialist, provided information about proposed rule changes that affect many parts of the agency’s Air Quality Program, including some types of permits.

Inahara explained that the revisions encompass nearly 600 pages of rules due to a number of typographical corrections, and that DEQ intends to provide a summary “roadmap” for commissioners well in advance of the final rule package for action in April. Inahara outlined the nine categories of the proposed rule revisions and provided detail on several of the proposed revisions. Davis provided detail on many of the proposed changes to permitting requirements for certain categories of air quality permits.

The commissioners asked clarifying and informational questions about the proposed revisions. The commissioners and staff discussed next steps for commission review prior to the proposed action item in April.

This item was taken out of order

H. Informational item: Commissioner reports

Commissioners provided verbal updates on their activities and other items of interest to the commission.

Commissioner Rider explained changes to the funding structure and processes for investments by OWEB in 2015. Director Pedersen noted that he can connect with the OWEB director to best provide agency input and feedback on the state priorities for investment in Oregon.

Vice-chair Armstrong provided updates on the proposed multi-agency Water Summit, planned for late 2015 or 2016, and noted that the first full meeting of the planning team will happen this month. He also described recent activities at the Board of Forestry and his role and the liaison to the board.

Commissioner Johnson noted that she recently attended the Water Resources Board meeting as the EQC liaison, and described the meeting topics and discussion.

Commissioner Eden noted that she and Chair O’Keeffe will start new liaison positions in 2015, the chair to the Board of Agriculture and commissioner to the Land Conservation and Development board. Director Pedersen provided information about the next steps and process for the new liaison appointments.

Director Pedersen explained that staff can start scheduling time on commission agendas for the liaisons to co-present on items of interest as a regular informational and discussion item at EQC meetings. The commissioners expressed their support for this idea.

F. Action item: Proposed Clean Fuels Program Phase 2 rules

David Collier, air quality manager, introduced the item. Cory-Ann Wind, air quality specialist, described the proposed rules for phase 2 of the Clean Fuels Program. Wind described the proposed rule’s development, the public comment process and the rules’ final content, including changes to definitions within the proposed rules. The commissioners asked clarifying and informational questions about the proposed rules. Commissioners also offered recommendations about agency activities and data that could best support the program and Oregon’s environment.

Chair O’Keeffe asked the commissioners to provide comments, if so desired, on their position prior to the vote.

Commissioner Eden commended DEQ staff for their work on the program and especially the outreach throughout the process. She extended her thanks to everyone who commented and provided input to DEQ. She noted her support for the motion. She added that the program is effectively a legislative mandate, and that body retains its power and authority to end the program.

Commissioner Johnson noted her support for the motion and expressed her position that the policy ultimately belongs to the Oregon Legislature and that body is responsible for the decision to continue or modify the program. She described some concerns with overall feasibility of the program due low-carbon fuel availability and potential negative economic impacts, and asked DEQ to provide regular updates about the program. She expressed support for Oregon taking a role in leading the west coast for lower-carbon fuel infrastructure investment and greater energy

independence and thanked DEQ staff for their work to provide the commission with excellent information throughout the rule development.

Vice-chair Armstrong echoed the thanks for the DEQ staff and all the people who brought testimony as presenters and in public comment. He noted his support for the motion, and urged DEQ to continue learning from its regional partners in the clean fuels efforts. He expressed that the program offers economic opportunity for Oregon in the future, and that any adjustments will come quickly for commission action and not be delayed.

Commissioner Rider thanked the staff and all people who presented comments and information throughout this rule development process. She noted that DEQ should lead the state in its decisions and work for Oregon's environment. She echoed the need for significant monitoring and reporting to ensure the program is working as it is intended, and expressed her support for the motion.

Chair O'Keeffe noted that she has heard a lot of good reasons to support the low carbon rules but that she would not support the motion. She expressed her support and thanks for the excellent staff work to develop the proposed rules and program. She noted her concerns about potential negative economic effects from the program and proposed rules, the limits of Oregon's influence for global climate change and disproportionate negative effects from this program on Oregonians experiencing poverty.

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

Move: Vice-chair Armstrong

Second: Commissioner Eden

The commission approved the action with four commissioners in support and one in opposition.

- *Yes: Vice-chair Armstrong, Commissioner Rider, Commissioner Johnson and Commissioner Eden*
- *No: Chair O'Keeffe*
- *Abstain: None*

After the commission's vote, Director Pedersen noted his thanks to the commissioners for their deep level of engagement with this topic. He stated that DEQ will provide regular updates and information to the commission as the program moves through its next steps, including any legislative action for the repeal or retention of the 2015 program sunset. He commended Cory-Ann Wind for her work over the past five years to develop and operate this program.

G. Informational item: Director's report

Director Pedersen presented written and verbal updates about DEQ, state and federal environmental activities of interest to the commission. The written report included information about:

- DEQ's work to coordinate Oregon's response to new proposed federal regulations under section 111(d) of the Clean Air Act.
 - Colin McConnaha, air quality specialist, provided additional detail on this item.
- Portland Harbor cleanup progress
 - The commissioners requested a tour and informational item of the cleanup sites at a future meeting.
- An application by Waste Management to Yamhill County for proposed expansion of Riverbend Landfill, which is not a commission action but the commission can expect significant public interest to this issue generally
- Ongoing solvent plume issues and the state leading a cleanup in the Keizer/North Salem area
- Shellfish safety concerns related to water quality and contamination issues and ongoing opportunities for cross-agency collaboration

Director Pedersen provided verbal updates about:

- DEQ's total enforcement cases in 2014, up 26 percent from 2013 and with a 42 percent increase in referrals, done by field staff, since 2013
- DEQ's lease for new office space in Portland, which will have both the Northwest Region office and the headquarters office co-located but still distinct within the building space starting in 2015
- DEQ's Salem office relocation to a new office space within the Oregon Department of Fish and Wildlife building this spring
- Environmental Council of States activities including new work with tribal governments, and the end of Director Pedersen's term as officer in September

The commissioners asked questions about and discussed the updates.

Chair O'Keeffe recessed the commission at approximately 4:30 p.m. until 8:30 a.m. on Thursday, January 8. On Wednesday evening, commissioners and some DEQ staff attended an informal, optional and self-pay social dinner in downtown Portland. Per state meeting law, no commission business was discussed at the dinner.

Thursday, January 8 – 8:30 a.m. to 12:30 p.m.

Chair O'Keeffe reconvened the commission at 8:30 a.m.

Present: Chair O'Keeffe, Vice-chair Armstrong, Commissioner Rider, Commissioner Johnson and Commissioner Eden

I. Public forum

Chair O'Keeffe convened the commission and opened public forum at 8:30 a.m. At the commission's request, Larry Knudsen, the commission's legal counsel, provided opening remarks reminding attendees that the commission may not receive or consider comments for any pending rule item for which the public comment period has closed.

Twenty-three people submitted speakers' forms to present comment in Portland. No people attended to present comment via conference call at the Bend and Medford DEQ offices.

1. Paul Sansone, OCAP, presented comments regarding liquefied natural gas and asked the commission to consider and take action to prevent the significant negative impacts the development would have on Oregon's environment.

2. Daniel Serres, Columbia Riverkeeper, presented comments regarding liquefied natural gas, and DEQ's role to review and take action on an application for dredging for a large LNG export project. He noted the potential negative impacts on fish and water quality near the project site and expressed concern about the project generally.

3. Cheryl Johnson, Clatsop County resident, presented comments regarding the negative impacts of a proposed liquefied natural gas project on the Columbia River estuary and related environmental resources and activities.

4 – 7. Brian Doyle, Ilsa Perse, Walter Want and Ramsey McPhillips presented comments in opposition to operations at Riverbend Landfill. Doyle described his concerns with Riverbend Landfill generally. Perse asked the commission to evaluate how DEQ does its work, and consider potential changes to rules when the rules do not seem sufficiently protective of human health and the environment. Want asked the commission to review the complaint process, noting that the odor complaints reported by residents do not seem to be recorded by DEQ. McPhillips reminded the commission of the specific human impacts of Riverbend Landfill and asked the commission to direct DEQ to respond to his questions about water quality and other impacts from the landfill.

8. Rex Burkholder, Oregon Outdoor Education Coalition, presented comments supporting the Oregon Outdoor School and place-based outdoor education. He noted that the coalition intends to bring a bill to the Oregon Legislature this year to provide funding and support for outdoor educational opportunities for all Oregon schoolchildren.

9. Charlie Fisher, Environment Oregon, commended the commission for its vote to approve the phase 2 rules for the Oregon Clean Fuels Program at its January 7 meeting.

10. Terry Flores, NW RiverPartners, presented comment for the proposed revisions to total dissolved gas standard modification requested for the four lower Columbia Dams operated by the U.S. Army Corps of Engineers. She noted that her organization supports the proposed modification with a caution regarding too much spill potentially harming migrating salmon.

Commenters 11 through 23 all presented information related to environmental concerns associated with Washington County.

11. Celeste Howard presented comment regarding concerns with emissions from Intel's facility in Hillsboro. She noted that climate change is a major issue and the state must maintain its leadership for control of greenhouse gases.

12. Stephen Hall discussed Oregon's environmental legacy and expressed concerns with the ongoing operations of Intel and air pollution associated with the facility.

13. Dale Feik discussed public health and safety associated with greenhouse gases and emissions associated with semiconductor plants, including Intel.

14. Jim Lubischer, Oregon Aviation Watch, presented comments regarding elevated lead levels in children and others and expressed concern with the lead contamination from fuels used at the Hillsboro Airport. He noted that the new Intel plant would contribute to elevated emission levels and toxics in Hillsboro-area air. He asked the commission to take specific actions to increase funding for better air toxics monitoring, to revise the lead standards to be more stringent than current regulations and to make other changes to lead-related regulations.

15. Russ Dondero, Washington County Citizens Action Network, noted his concern with the inability of the commission to hear comment regarding the proposed rules. Larry Knudsen, the commission's legal counsel, provided legal clarification on this provision. Dondero noted his concerns about negative environmental impacts from industrial sources, both Intel and other facilities in the Hillsboro area.

16. Emily Herbert encouraged the commission to consider the grassroots movement growing across the nation related to greenhouse gases, climate change and toxic emissions.

17. Deke Gunderson noted his experience as an environmental educator and ongoing worsening of climate issues and trends associated with greenhouse gases and toxic emissions. He asked the commission to position Oregon as a leader by strengthening its standards and requirements at the state level since there is little positive change in national direction.

18. Victoria Lowe noted that her comments relate to all permitted activities for air and water quality. She explained that the juncture of all environmental issues is the permit regulating any source or facility's activities and organizations may be incentivized to only meet the minimum standards and laws in pursuit of profits. She expressed support for demanding proactive reductions in the use of toxins instead of focusing on cleanups after potential exposures.

19. Sharon Cornish asked the commission to take a strong position on regulations, and presented concerns regarding water quality negatively affected by permitted sources near her residence in the Hillsboro area. She noted person health concerns related to the area water quality issues and asked the commission to provide stronger regulation for industrial, city and county sources.

20. Dale Feik submitted written comments on behalf of Jules Elias.

21. Dale Feik submitted written comments on behalf of Dan Bloom.

22. Kristina DiPaolo asked the commission to hold Intel to the strongest possible standards. She discussed negative personal health issues associated with emissions from an Intel facility in New Mexico. She asked the commission to protect Oregonians and especially its children at all costs.

23. Jill Eiland, Intel, presented an update on community engagement activities and a new Good Neighbor Agreement that is in development.

Chair O’Keeffe closed public forum at 10:30 a.m.

This item taken out of order

C. Informational item: Proposed water quality standard modification for total dissolved gas

Prior to starting this informational item, the commissioners set a date for their telephone conference call to take action on this item. They agreed on Feb. 2, 2015, at 10 a.m.

Commissioner Eden, at the chair’s direction, noted that she had a work conflict that prevented her from attending this item and presented a question for the presenter panel. She asked for clarification about a statement made this summer as part of a tour at the Fish Passage Center if the previous categorization of the indication of gas bubble trauma in juvenile fish were not actually accurate, and the presence in the fins was an indicator of more trauma internally. She also noted reticence for a five-year term for the modification. She indicated that she will listen to the full response provided during the item’s presentation and follow-up with staff and co-presenters as necessary.

Gene Foster, water quality manager, introduced the item and co-presenters. Paula Calvert, Columbia River Coordinator, presented an overview about the total dissolved gas standard, history of modifications over the past 20 years, relationship between the modification and regulatory approach related to the total maximum daily load implementation for total dissolved gas and the current request from the U.S. Army Corps of Engineers. Rock Peters, U.S. Army Corps of Engineers, provided information about the history of the fish passage and fish spill programs at the four lower Columbia River dams operated by the Corps. He outlined the operational and technical adjustments taken at the dams since 1995 to improve fish passage, survival and overall program success rates. Margaret Filardo, Fish Passage Center, discussed the gas bubble trauma monitoring program along the Columbia River. She discussed the program’s data collection and reviewed the program’s observations about total dissolved gas and gas bubble trauma in migrating fish. Calvert reviewed the request from the Corps and outlined next steps for DEQ and the commission.

The commissioners asked clarifying and informational questions about the program and the request for a modification of the total dissolved gas standard. The group also reviewed the summary data table provided as a handout for this item.

Following the end of item C, Director Pedersen asked Cory-Ann Wind to come to the presenters' table for a special recognition from the commission for her work over the past five years on the Clean Fuels Program. Commissioners provided their thanks and comments of recognition and appreciation. Director Pedersen and Chair O'Keeffe presented her with a formal certificate of recognition.

Chair O'Keeffe adjourned the meeting at 12:15 p.m.

2015 EQC meeting dates

February 2015: Special meeting, via phone
April 15-16: Regular meeting, Salem
June 10-11: Regular meeting, location TBD
August 12-13: Regular meeting, location TBD
October 14-15: Regular meeting, location TBD
November 5: Special joint meeting with the Board of Forestry, location TBD
December 9-10: Regular meeting, location TBD

Meeting notes of a special meeting of the Oregon Environmental Quality Commission

Feb. 2, 2015

Portland, Oregon

DEQ's headquarters: 811 SW 6th Avenue

*Conference room EQC-A on the 10th floor, with commissioners attending by telephone
conference call*

Monday, February 2, 10 to 11 a.m.

Chair O'Keeffe convened the special meeting at 10 a.m. a.m.

Present: Chair O'Keeffe, Vice-chair Armstrong, Commissioner Rider, Commissioner Johnson and Commissioner Eden

- *Note: All commissioners participated by telephone conference call*

A. Action item: Proposed modification of water quality standards for total dissolved gas

Gene Foster, Water Quality Program manager, introduced the item. Paula Calvert, Columbia River Coordinator, presented information regarding a request from the U.S. Army Corps of Engineers for a standard modification for total dissolved gas. Calvert described the provisions of the request, DEQ's additional request elements and recommended that the commission approve the request with these additional elements.

The commissioners asked clarifying and informational questions about the proposal. They noted their support for the modification, and requested that DEQ do more proactive monitoring of the daily data related to total dissolved gas and provide an annual update to the commission, and timed to the delivery of the Corps' annual report, on the matter.

Action: Grant the total dissolved gas standard modification as requested by the U.S. Army Corps of Engineers with the following change:

- Include an adaptive management component as specified in the 2002 Lower Columbia River total dissolved gas total maximum daily load.

Move: Commissioner Johnson

Second: Vice-chair Armstrong

The commission unanimously approved the action.

Following the commission action, Chair O'Keeffe accepted a request for public comment from a meeting attendee at the Portland office location.

1. Dale Feik, citizen, presented comments regarding water quality concerns in Oregon. He read a statement previously provided to the DEQ Blue Ribbon Committee and noted his intend to provide a copy of the testimony to the commissioners via email.

Chair O'Keeffe adjourned the meeting at 10:40 a.m.

2015 EQC meeting dates

April 15-16: Regular meeting, Salem
June 10-11: Regular meeting, location TBD
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October 14-15: Regular meeting, location TBD
November 5: Special joint meeting with the Board of Forestry, location TBD
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