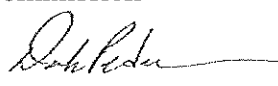


State of Oregon
Department of Environmental Quality

Memorandum

Date: July 24, 2015

To: Environmental Quality Commission

From: Dick Pedersen, Director 

Subject: Agenda item E, Informational item: Water Quality Program Trading Policy and rules development
Aug. 12-13, 2015, EQC meeting

Why this is important DEQ is developing new rules for water quality trading. DEQ will propose these for commission action at the December 2015 meeting. If adopted, these rules will strengthen the underpinnings of DEQ's water quality trading program and provide transparency and regulatory certainty for stakeholders and DEQ staff.

DEQ has also revised its Internal Management Directive on water quality trading to serve as a companion document to the rule package. The revised directive incorporates proposed rule language as well as new information and lessons learned since DEQ embarked on a trading program a decade ago. DEQ staff will use the directive in the normal course of business to evaluate trading plans for conformance with proposed rules and other applicable state and federal regulations and policies.

Together the rules and the revised directive will advance DEQ's effort to implement a credible and effective water quality trading program in Oregon. The program will provide NPDES permit holders with cost-effective ways to meet permit requirements as well as accelerate watershed restoration and attainment of water quality goals.

Background Water quality trading is an innovative program that allows facilities that discharge wastewater to a stream or river to meet regulatory obligations by:

- Purchasing equal or greater pollutant load reductions from another source, or
- Taking action to meet water quality standards through the restoration of riparian areas, wetlands, floodplains and aquatic habitats.

Trading is based on the fact that dischargers in a watershed can face very different costs to control the same pollutant. Dischargers with high pollution control costs may choose to participate in water quality trading and meet their regulatory obligations by purchasing pollution reductions from other sources at lower costs. Trading may also be targeted to take place in certain areas of a watershed and allow Oregon to achieve water quality objectives more quickly than would otherwise be possible.

In 2012, DEQ updated its internal management directive on water quality trading to encourage and expand the use of water quality trading in Oregon. The purpose of the updated directive is to provide DEQ staff with a consistent framework for evaluating

water quality trades implemented through the NPDES permit program.

The directive is focused on NPDES permittees because DEQ expects the majority of trading activity to be driven by the need to comply with total maximum daily load wasteload allocations or other water quality-based requirements in NPDES permits. Two publicly owned wastewater treatment service providers and one industrial facility operate under permits that include water quality trading provisions. DEQ issued NPDES permits to Clean Water Services, the Medford Regional Water Reclamation Facility and Port of St. Helens that allow thermal credit trading as a means to comply with stringent water quality-based effluent limits.

**Policy
forums**

In 2014 and 2015, DEQ convened six policy forums. These forums, distinct from DEQ's usual advisory committee process, gave participants the opportunity to provide technical, policy and logistical feedback to DEQ as it developed policy and rule drafts for water quality trading. DEQ also discussed proposed revisions to the internal management directive and solicited targeted input from policy forum participants.

DEQ provided policy forum participants with clear goals, timelines and outlines of forum process. To encourage broad participation, DEQ held policy forums in Portland, Salem, Springfield and Hillsboro and made each forum accessible via web conferencing. The policy forums provided DEQ with the opportunity to engage in rich and meaningful dialogue with participants outside of the more formal and traditional advisory committee process, gather substantive input for technical, policy and logistical concerns and build stakeholder support.

**Commission
involvement
and next
steps**

DEQ will open a public comment period on the draft proposed rules Aug. 14, 2015. Following the close of the comment period in late September 2015, DEQ staff will review and respond to comments and make changes to the proposed rules as appropriate before submitting them for commission action at the December 2015 EQC meeting.

**Supporting
materials
available
online**

1. Program webpage
 - <http://www.deq.state.or.us/wq/trading/trading.htm>
2. Water Quality Program Trading Policy factsheet
 - <http://www.deq.state.or.us/wq/pubs/factsheets/programinfo/09-WQ-012WQTradingIMD.pdf>
3. Policy forum meeting page and materials
 - <http://www.oregon.gov/deq/RulesandRegulations/Pages/Advisory/AMWQTrade.aspx>
4. *Draft proposed rules will be available after Aug. 14, 2015, through the DEQ Rules and Regulations web page, under "Current Rulemaking Proposals"*
 - <http://www.oregon.gov/deq/RulesandRegulations/Pages/default.aspx>

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