

Meeting minutes of the 384th regular meeting of the Oregon Environmental Quality Commission

Aug. 12-13, 2015
Hampton Inn and Suites
201 39th Street, Astoria

Wednesday, August 12 – 8:30 a.m. to 5 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 June 2015

The commission reviewed and took action on draft minutes from the June 10-11, 2015, regular EQC meeting.

Action: Approve the June 10-11, 2015, meeting minutes as presented.

Move: Vice-chair Armstrong

Second: Commissioner Johnson

The commission unanimously approved the motion.

B. Informational and discussion item: EQC annual self-evaluation survey

Greg Aldrich, Office of Policy and Analysis manager, presented a summary of the EQC’s annual self-evaluation survey, used as a state Key Performance Measure for the commission’s effectiveness. He noted that the commission had an overall total of 100 percent. Aldrich also reviewed the new supplemental questions sent to the commissioner liaisons and proposed questions for staff and presenters at commission meetings. The commissioners discussed options for feedback from staff, presenters, people who comment at public forum and the commissioners. They suggested changes to the proposed questions and process, which Aldrich noted DEQ could start after this August EQC meeting.

C. Informational item: Budget update

Jim Roys, Financial Services manager, presented an update on the agency’s budget as a follow-up to the 2015 Oregon Legislative Session. He reviewed general budget information, including changes through the Legislative process and other financial specifics for the agency.

D. Informational and discussion item: Legislative Session update and budget development process

Palmer Mason, Legislative Affairs manager, provided summary and follow-up information regarding the 2015 Oregon Legislative Session. He described the outcomes of the 2015 Legislative Session. The commissioners asked clarifying and informational questions about legislation and next steps. Jim Roys presented additional information and summaries of other bills passed during the Session that were administrative and require agency actions or changes. Commissioners asked additional clarifying and informational questions about these administrative bills.

Greg Aldrich, Office of Policy and Analysis manager, walked the commission through the development process for DEQ's 2015-17 Operating Budget and next steps for DEQ. He noted that the commission will be asked to certify DEQ's 2017-19 Agency Request Budget in approximately one year and the development of that budget offers an opportunity for earlier and richer commissioner involvement. He described the proposed development process for the budget and asked the commissioners for feedback on the process and ways they would like to be engaged. Commissioners provided feedback on the process and their interest in being involved.

- Vice-chair Armstrong expressed an interest in participating on a budget development subgroup
- Commissioner Rider asked about the budget implications related to process improvement work at the agency
- Commissioner Eden recommended the commission have a significant budget discussion at the start of 2016 to provide input into the agency's budget development and work prioritization, potentially as a retreat or other focused meeting worksession
- Commissioner Johnson encouraged staff to find out how other agencies involve their commissioners and board members in budget and priority development

Director Pedersen noted his thanks and appreciation for the work Aldrich, Mason and Roys do for DEQ in respect to the legislature and budget processes.

E. Informational item: Water Quality Trading Policy updates

Steve Mrazik, Water Quality manager, and Courtney Brown, project lead, presented an overview of proposed revisions to the Water Quality Trading Policy. Mrazik provided overview information about the Water Quality Trading Program at decision to develop updates to the program. Brown explained that DEQ intends to bring proposed program rules for commission action at the December 2015 EQC meeting.

Brown described the process DEQ has used to develop proposed revisions to the state's water quality trading policies, the general objectives of trading in the state and nationally and general information about the outcomes of the policy forums and the recommended revisions. Brown noted next steps, including the planned outreach for the proposed revisions. The commissioners asked clarifying and informational questions about water quality trading, generally, and DEQ's specific proposed revisions.

Following the staff presentation, the commission welcomed public comment specific to this issue. Three people presented comment regarding water quality trading.

1. Janet Gillaspie, ACWA, provided a handout and asked the commissioners to ensure the final proposed rules and revisions are feasible and achievable for Oregon's communities.
2. Dale Feik, Oregonian, noted his involvement at the policy forums and expressed his support for the proposed revisions.
3. Carrie Sanneman, Willamette Partnership, noted her appreciation for the DEQ staff work to engage groups in broad and open discussion and requested that the commissioners look closely at provisions to verify mechanisms to meet the intended needs and design for the trading elements.

Note: This item was originally proposed as an action item on the meeting agenda and the commission modified the item to be informational only

F. Informational item: Temporary rules for wastewater permit fee increases

Director Pedersen provided opening remarks for this item explaining the process and next steps related to the change from an action to informational item. Ron Doughten, Water Quality manager, and William Knight, Water Quality Program analyst, presented information about a proposed 12 percent increase to wastewater permit fees. Knight described the proposed rules, the agency's development process for the rules and explained that DEQ anticipates bringing permanent rules for wastewater permit fee increases to the December 2015 EQC meeting.

The commissioners noted their appreciation for the decision to modify the item to be informational and not action at this meeting.

G. Action item: Delegation of specific EQC rulemaking authority to DEQ's director

Meyer Goldstein, DEQ Rules Coordinator, presented a request for delegation to Director Pedersen of rulemaking authority for typographical, administrative or other non-substantive corrections to commission-approved rules. He described the relevant statutory authorities allowing this proposed delegation and action.

The commissioners asked clarifying and informational questions about the proposal. Commissioners Johnson and Eden requested that DEQ provide information to the commissioners on any changes done under this method and continue current procedures to maintain full records of any changes.

Action: Delegate to Dick Pedersen, DEQ director, the authority to adopt rules of the nature described in ORS 183.335(7) and authorize the EQC chair to sign the delegation form, provided as attachment A to this item's memorandum, on behalf of the commission

Move: Vice-chair Armstrong

Second: Commissioner Rider

The commission unanimously approved the action

G2. Action item: Authorization for DEQ's director to rule on specific motions to correct the commission record

Gary Vrooman, Department of Justice staff and commission legal counsel, presented a request for authorization for Director Pedersen to rule on motions and then correct, if necessary, the commission record when petitioned to do so under specific legal parameters. Vrooman described the specific instances under which that authority can be used and the proposed process for motions to correct the commission record. The commissioners asked clarifying and informational questions, including specific examples of when the commission or director would modify a record. Commissioner Eden requested that the director notify the commission if any rulings or corrections are made.

Action: Approve a resolution authorizing the DEQ director to decide motions to correct the record, and to correct the record, on behalf of EQC when such motions are filed pursuant to Oregon Rule of Appellate Procedure (ORAP) 4.22 by a party that has

petitioned for review of a rule adopted by the commission, and that the commission will be notified of any such decisions by the director.

Move: Commissioner Johnson

Second: Commissioner Eden

The commission unanimously approved the action

H. Informational item: Oregon Watershed Enhancement Board initiatives and strategic investments

Commissioner Rider introduced this item, and noted her role as the formal EQC liaison to OWEB. Meta Loftsgaarden, Director of the Oregon Watershed Enhancement Board, led a discussion of OWEB's work, including statewide initiatives and strategic investments for watershed enhancement. Director Loftsgaarden described the composition of OWEB, with specific appointments from state boards, federal agencies and the residents of Oregon. She showed the priority investment areas and sectors across the state, and described the processes for protecting Oregon's watersheds.

Commissioner Rider noted the benefits for all Oregonians related to OWEB's strategic investments and Clean Water Partnership. Director Pedersen noted that the work is collaborative among state agencies, federal partners and private funding, and that collaboration allows for more investment and better outcomes for Oregon. Director Loftsgaarden described some of the surprises or other unexpected outcomes over time, and also expressed her support for ongoing and increased partnerships among agencies and organizations.

Chair O'Keeffe recessed the commission for lunch from 12:15 to 1:20 p.m.

I. Informational item: North Coast Regional Solutions Team project highlights

Members of the North Coast Regional Solutions Team, including DEQ's staff representative Jennifer Purcell, presented highlights of the team's work and described information about the afternoon tour. Mark Ellsworth, Team coordinator, described the team's work, its program priorities and membership. Purcell described the team's workplan and highlighted several projects of particular interest to the commission. Denny Houle, Business Oregon, described his role with the team business partners in the north coast region and the industrial lands program.

The commissioners asked informational questions about the North Coast Regional Solutions Team's work and projects. Chair O'Keeffe noted that Representative Boone is attending the afternoon tour with the commission. Purcell described logistics for the tour.

Chair O'Keeffe recessed the commission at approximately 2 p.m. until 8:30 a.m. on Thursday, August 13. She noted that commissioners and staff would participate in a tour, item J, from 2 to 5 p.m. and the commission would host a public meet-and-greet from 5:30 to 7 p.m. at the meeting venue and some commissioners and staff would attend an informal, self-pay, non-business dinner at a restaurant in Astoria. No commission business was held during the tour, evening meet-and-greet or dinner.

J. Tour: Environmental projects in Astoria

Commissioners, some staff and project partners took an afternoon tour of environmental projects in Astoria. The tour lasted from 2 to 5 p.m. No meeting minutes or audio record were kept of the tour.

Wednesday evening meet-and-greet with local officials and Astoria town hall

Commissioners and some DEQ staff participated in an informal session on Wednesday evening. No meeting minutes or audio record were kept of this event, which provided members of the public an opportunity to discuss environmental matters in an informal setting.

Thursday, August 13 – 8:30 a.m. to 4 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

K. Informational item: Stormwater management practices

Director Pedersen introduced David Like, Hampton Lumber, who presented about the innovative techniques used for stormwater management at the company’s facilities in Tillamook. Like provided background on the company, described Hampton’s timber management and discussed the implementation of best practices and technologies for stormwater management since 1999. He noted that the company has exceeded its standards and benchmarks for stormwater control through a combination of bioswales, mechanical controls for overflow events and ongoing sweeping and cleaning practices on the site. Like described stormwater lessons learned since 2000 and more recent improvements for reducing zinc levels in stormwater at Hampton’s facilities. He noted that Hampton’s success is based on the health of its forest lands and timber sales, and stressed the importance of DEQ remaining involved in watershed concerns and protection.

Vice-chair Armstrong explained that he, as an educator in Tillamook, was invited to the weekly management meeting at Hampton and noted that the company does encourage innovation from its employees to solve environmental problems. Director Pedersen noted that several students at Tillamook High created science projects based on stormwater at the facility and Holden Creek and the students brought those projects to regional, national and international science forums. Representative Boone noted that she attends that international water forum and she did not know if the Tillamook student won at that event but was very excited to have that representation from the region.

L. Informational item: Ports panel

Jennifer Purcell, DEQ North Coast Regional Solutions Team member, introduced the item and panelists who presented information about their activities and development plans at four ports along the north coast. Jim Knight, Port of Astoria, Michelle Bradley, Port of Tillamook Bay, Mike Saindin, Port of Garibaldi, and Patrick Trapp, Port of St. Helens, presented about their port operations, environmental challenges and opportunities and plans for future growth and improvements. Commissioners asked informational questions about ways DEQ can best collaborate with ports to meet shared environmental goals.

M. Informational item: 2050 Vision and Materials Management Program update

Loretta Pickerell, Materials Management manager, introduced the item and described the program's overview, near-term goals accomplished in 2015 and plans for the next year. David Allaway, Materials Management senior policy analyst, provided a detailed update on 2015 legislation approved for program improvements, additional information about the *2050 Vision and Framework for Materials Management* and a general Materials Management Program update. Pickerell discussed the program's next steps and potential EQC actions related to proposed rule revisions and program updates. Commissioners asked clarifying and informational questions about the program. Commissioner Rider commended the staff and noted her appreciation for and involvement with the project and program.

Following the staff presentation, Director Pedersen invited Gabriella Goldfarb, Natural Resources Policy Advisor to Governor Brown, to the presentation table. Goldfarb noted that the work of the Materials Management Program is a major policy leap forward and complimented DEQ's staff on their cutting-edge work. She presented three pens, used by Governor Brown, to sign Senate Bills 245, 263 and a note to Director Pedersen and DEQ in appreciation for the legislation. Palmer Mason, DEQ's Legislative Affairs manager, thanked Goldfarb and the Governor's office for their support throughout the process and recognized DEQ's team working on the program: David Allaway, Peter Spendelow, Abby Boudouris, Loretta Pickerell, Cheryl Grabham and Craig Phillips. He noted his appreciation to the stakeholders who participated throughout the legislative process.

N. Public forum

Chair O'Keeffe opened public forum at 11 a.m. Thirty-three people submitted request-to-speak forms at the meeting venue in Astoria. No people provided comment by telephone conference call from the Bend, Medford and Portland (headquarters) DEQ offices.

Topics discussed included opposition to liquefied natural gas terminals being sited along the north coast, drinking water protection, aerial herbicide spray on forested lands, public health concerns from industrial pollution, logging and other threats to waterbodies along the coast, water quantity and drought impacts to watershed functions, concerns about pollution at Riverbend Landfill, personal experiences with pesticide and herbicide spraying, economic and social effects on Oregon's communities from forestland activities, opportunities for maintaining a commercial fishing industry in Astoria with a shipyard at the Astoria Marine site, protection of the Columbia River estuary, protection of the land and river that is the traditional home of the Celilo-Wyam community, specific permit elements and economic opportunities for seafood processing plants, promotion of the growth of electric vehicles locally, the veracity of prior claims related to LNG projects, concerns about waste heat from LNG operations and general protection of Oregon's environment.

Chair O'Keeffe recessed the commission for a working lunch and executive session at approximately 12:45 p.m. The commission, legal counsel and some staff met for an executive session and working lunch from 12:45 to 1:30 p.m. This executive session was held in accordance with state public meeting laws.

O. Action item: Contested case hearing

Paul Garrahan, Department of Justice and legal counsel for the commission, provided a brief summary of the contested case matter and provided direction on hearing procedures. Chair O'Keeffe polled the

commissioners for ex parte communications or conflicts of interest in the matter and none were reported by commissioners.

Sarah Wheeler and Jeff Bachmann, Office of Compliance and Enforcement, presented information on behalf of DEQ. Gary Vrooman, Department of Justice, provided additional clarification for specific legal elements of the contested case. Larry Gildea presented information on behalf of the parties associated with Kinzua landfill.

Commissioners asked clarifying and informational questions about the material presented. At the commission's request, Garrahan reiterated the commission's options for action and commissioners deliberated on the matter before taking action.

Action: Direct DEQ staff to draft a proposed order that overturns the administrative law judge's finding of fact and conclusions of law due to DEQ staff presenting clear and convincing evidence to support that action and to bring that proposed order back to the commission for approval at a later EQC meeting.

Move: Commissioner Eden

Second: Commissioner Johnson

The commission unanimously approved the action

P. 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 updates included information about:

- Water quality standards revisions for copper
- Hazardous algal blooms, and DEQ's role in monitoring these events across the state
- The Oregon Clean Fuels Program
- Wildfires
- DEQ's participation in an employment study for veterans
- The federal Clean Power Plan
- Updates on and new additions to the DEQ annual rulemaking plan

Additionally, Director Pedersen provided verbal updates about:

- Congressional actions related to ballast water
- Updates to the Toxic Substances Control Act, ToSCA, at the national level
- Reductions in Section 319 water quality grants due to a reduction in funding for Oregon for this program
- Attending the annual meeting of the Association of Clean Water Agencies in Bend
- The 2015 Northwest Diversity Conference, and an invitation to commissioners to attend
- A meeting of the Environmental Justice Task Force in September, which may be in Medford
- Updates about Oregon LNG and associated permits that DEQ will review and engage in formal public process

- Nina DeConcini, Northwest Region Division administrator, provided additional information for this update
- A recent trip to Washington D.C. with EPA's Region 10 administrator to brief the Oregon delegation on the status of Portland Harbor's cleanup
- The social media presence for DEQ and the commission and engagement with Oregonians through different information outlets
 - Jennifer Flynt, Chief Information Officer, presented this update
- His appreciation for Nina DeConcini and Jennifer Purcell and their work to organize this meeting.

Commissioners asked clarifying and informational questions about the items presented in the report and verbally.

Q. Informational item: Commissioner reports and agenda planning discussion

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

Commissioner Rider reiterated the importance of strategic planning and focused investments for OWEB and provided information about that board's work. She also recently attended an electric vehicle conference and expressed support for encouraging the development of more electric vehicles used in Oregon.

Vice-chair Armstrong noted that Reedsport's grant application, to FEMA for the purposes of flood recovery, has advanced and will submit additional information from DEQ for the environmental narrative of the application.

Chair O'Keeffe stated that the Board of Agriculture has not met recently and noted that cattle recently overtook ornamentals as the main agricultural products for Oregon.

Commissioner Johnson provided an update on recent discussions about water supply, drought concerns, groundwater issues and other water concerns at the Oregon Water Resources Commission meeting.

Commissioner Eden noted that she attended, by phone, a recent meeting of the Clean Fuels Advisory Committee.

Greg Aldrich, Office of Policy and Analysis manager, noted that the commission has two regular meetings and one special meeting for the remainder of 2016. He noted that the Water Resources Commission is not available for a full joint meeting at the October EQC meeting, but the staff will continue to plan for future joint meetings. Aldrich expressed support for a one-day commissioner workshop focused on legislative and budget development in November, similar to the January 2015 special budget meeting, and a potential focus on agricultural issues at the December EQC meeting. Vice-chair Armstrong asked staff to pursue a meeting with EPA representatives, and Director Pedersen noted his commitment to follow-up on that opportunity.

Commissioners also suggested potential meeting topics:

Draft x
Approved as presented
Approved with amendments

- Global climate change and climate resiliency
- Earthquake preparedness, environmental risks and state agency responsibilities

Chair O’Keeffe adjourned the commission at 4 p.m.

2015 EQC meeting dates

October 14-15: Regular meeting, Klamath Falls
November 5: Special meeting/worksession, Portland area
December 9-10: Regular meeting, Portland area