

Minutes of the 375th regular meeting of the Oregon Environmental Quality Commission

Oct. 16-17, 2013
Tillamook, Oregon
Tillamook Bay Community College
4301 3rd Street, Tillamook

Wednesday, October 16 – Regular meeting: 8 a.m. to 4:30 p.m.

A. Tour of Tillamook County environmental projects

Commissioners and staff went on a multi-stop tour around the county to visit projects and business locations of environmental interest from 8 a.m. to noon. The tour included stops at the Port of Tillamook Bay, Whiskey Creek Shellfish Hatchery and Hampton Mills lumber operation.

Present: Chair O’Keeffe, Vice-chair Armstrong, Commissioner Blosser, Commissioner Rider and Commissioner Johnson

Chair O’Keeffe convened the meeting at 1 p.m.

B. Informational item: Welcome from local officials

Tillamook County Commissioner Mark Labhart and Tillamook Bay Community College President Dr. Connie Green welcomed the commissioners to the area and provided opening remarks for the meeting.

1. Informational item: Oregon Solutions Project Exodus

Tillamook County Commissioner Mark Labhart presented information about Project Exodus, an Oregon Solutions project completed in 2010 to control catastrophic flooding in the Tillamook watershed. Commissioner Labhart discussed the severe storms and flooding in Tillamook between 1996 and 2012, including 15 federally-designated disasters. Labhart outlined the process to develop the flood mitigation project and the steps to analyze the issues and solutions.

C. Informational item: North Coast Regional Solutions Team

Members of the North Coast Regional Solutions Team and Center discussed their work and the priorities of the north coast center. Mark Ellsworth, the center coordinator, introduced the team: Jennifer Purcell, DEQ, Patrick Wingard, DLCD, and Dennis Houle, Business Oregon. Ellsworth described the involvement of DEQ with the community and team, and discussed the work of the North Coast Regional Solutions Center and its overall goals and priorities. Purcell described several projects in which DEQ served as the lead agency. Houle described Business Oregon’s involvement with local projects to advance economic development. Wingard discussed the importance of interagency relationships to ensure successes for the center and team. The commissioners asked informational questions about the work of the center and the communities it serves.

D. Action item: Review of draft minutes from Aug. 21-22, 2013, EQC meeting

The commission reviewed and took action on recent meeting minutes.

Action: Approve the Aug. 21-22, 2013, EQC meeting minutes as presented.

Move: Vice-chair Armstrong

Second: Commissioner Johnson

The commission unanimously approved the Aug. 21-22, 2013, EQC meeting minutes as presented.

H. Informational item: Oregon's forest products industry

Representatives from Hampton Mills and Tillamook Lumber discussed their work in the forest products industry and opportunities for environmental stewardship and economic development. Mark Elston discussed the history of Hampton Affiliates, and its work in the Tillamook area and around Oregon.

Heath Curtis, Oregon Forest Industries Council, thanked Director Pedersen for his open-door policy and willingness to meet with the forest industries representatives. He discussed forest industry's concerns regarding federal approval of certain Oregon regulations related to water quality along the Oregon coast. Dennis Creel, Hampton Affiliates, discussed habitat improvements on privately-owned forest lands across Oregon and the north coast. David Like, Hampton Affiliates, discussed concerns about stormwater permits and compliance issues in the forest products industry. The commissioners asked informational questions about the organization and forest products industry.

E. Action item: Temporary rules for air quality permit fees

Andy Ginsburg, DEQ Air Quality Division administrator, and Andrea Curtis, Air Quality Division analyst, presented temporary rules for commission action. The proposed rules would increase fees for Air Contaminant Discharge Permits for the 2013 billing cycle in order to support staff work and program costs.

Curtis described the proposed temporary rules. She noted that the proposal includes a minor date correction related to notification on October 4, not October 2, and an addendum with revised motion language. The commission asked clarifying and informational questions about the proposed rules.

Action: Determine that the increased fees in the temporary rules, as presented in attachment A, are necessary to cover the reasonable indirect and direct costs of implementing Oregon's air contaminant discharge program; adopt the proposed temporary rules in attachment A as part of chapter 340 of the Oregon Administrative Rules to be effective upon filing with the Secretary of State for 180 days; and adopt the justification for temporary rules in attachment B.

Move: Commissioner Blosser

Second: Vice-chair Armstrong

The commission unanimously approved the motion.

F. Action item: Temporary rules for air quality diesel grants program

Andy Ginsburg, Air Quality Division administrator, and Kevin Downing, Air Quality Division analyst, presented temporary rules for the diesel grants program. The proposed rules would allow DEQ to adopt federal definitions for its diesel grant program, which would make diesel grants available for more uses than currently allowed under state definitions.

Downing described the proposed temporary rules and noted a date correction related to notification on Oct. 4, not Oct. 2, and the addendum with revised motion language.

Action: Adopt the proposed temporary rule amendments in attachment A as part of chapter 340 of the Oregon Administrative Rules to be effective upon filing with the Secretary of State for 180 days; and adopt the justification for temporary rules as provided in attachment B.

Move: Vice-chair Armstrong

Second: Commissioner Johnson

The commission unanimously approved the motion.

G. Action item: Infrastructure State Implementation Plan updates

Andy Ginsburg, Air Quality Division administrator, and Carrie Ann Capp, Air Quality Division analyst, presented permanent rules for commission action. The proposed rules would update the Oregon Infrastructure State Implementation Plan for nitrogen dioxide, sulfur dioxide and lead. EPA requires this plan to ensure that Oregon’s standards meet federal requirements and is subject to final EPA review if approved by the commission.

Capp described the proposed rules, DEQ’s development process for the rules and other background information about the regulations. The commissioners asked clarifying and informational questions.

Action: Adopt the proposed permanent rules in attachment A as part of chapter 340 of the Oregon Administrative Rules. Approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040

Move: Commissioner Johnson

Second: Commissioner Blosser

The commission unanimously approved the motion.

I. Informational item: High school environmental programs

Jennifer Purcell, DEQ North Coast Regional Solutions Center member, introduced this item and students and educators from Tillamook and Neah-Kah-Nie High Schools. She noted that the programs have received international and national recognition for their natural resources work.

Clair Thomas, Tillamook High School natural resource educator, and Brenton, student, discussed a project for restoration of Holden Creek and overall environmental programs at the school. Thomas explained that this project was one of 20 in the district, and is headed to the national competition later this month. He discussed project history and general program information. Brenton discussed his specific project regarding the reestablishment of specific sensitive insects and fish in the Holden Creek area.

Beth Geinger, Neah-Kah-Nie High School natural resource educator, and Nathan, student, presented information about their projects in the Rockaway area. Geinger described the district's environmental and natural resource projects from kindergarten through grade 12 and the school's success at National Ocean Sciences Bowl. She noted that the school has won the bowl 11 times since the competition started in 1998. Nathan described the structure and content of the state and national bowl and his experiences in those competitions.

The commissioners asked clarifying and informational questions about the projects. Director Pedersen thanked the presenters for their engagement and education of Oregon's natural resources. The commissioners echoed Director Pedersen's statements and congratulated the students and their teachers for their work and improvement of Oregon's environment

Chair O'Keeffe recessed the meeting at approximately 4:30 p.m. until 8:30 a.m. on Thursday, October 17.

Evening session

The commission held an informal session from 5:30 to 6:30 p.m. at the Garibaldi House Inn at 502 Garibaldi Ave., in Garibaldi. Local elected officials, municipal representatives and area residents attended to discuss environmental concerns with the commissioners.

Commissioners and DEQ staff attended an informal, optional and self-pay dinner on the north coast on Wednesday evening. No commission business was held during dinner.

Thursday, October 17 – Regular meeting: 8:30 a.m. to 3 p.m.

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

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

J. Public forum

The commission opened public forum at 8:30 p.m. People could present comment in-person in Tillamook or by conference call from the Bend, Eugene, Medford and Portland (headquarters) office. Four people submitted registration sheets to comment at the Tillamook meeting location.

1. Linda Peters, Washington County Citizen Action Network president, presented comments about concerns regarding the proposed Title V air quality emissions permit for an Intel facility in Hillsboro. Peters submitted a packet of documents supporting her comments. She asked the

commission to work with the organization on specific actions and regulatory requirements related to stack emissions from manufacturing plants.

2. Dale Feik, Washington County Citizen Action Network, presented comments about concerns regarding the proposed Title V air quality emissions permit for an Intel facility in Hillsboro. He noted his concerns about the health effects related to emissions from Intel and asked the commission to review the packet of information submitted by Peters. Feik submitted two copies of a book and film supporting his comments.

3. Michael Newton, Oregon State University College of Forestry, presented comments about water quality and stream temperatures in forest lands. He submitted a copy of his comments to the commission. Newton explained that he intends to present the same comments and recommendations to the Board of Forestry next month. He asked the commission to provide the material to DEQ's technical staff for their use and reference as they develop water quality temperature standards.

4. Lisa Phipps, Tillamook Estuary Partnership director, presented comments about water quality concerns and the importance of maintaining water quality funding through the federal and state 319 grant program. She noted that the Tillamook Estuary Partnership also has a unique joint partnership with DEQ to support the position of a staff person located in the Tillamook area. Phipps complimented York Johnson, DEQ/TEP staff person, for his work to develop the program and DEQ's ongoing support of the partnership.

K. Informational item: Sustainability in the dairy industry

Patrick Criteser, president and CEO, and Jack Mulder, director of engineering, from the Tillamook County Creamery Association discussed their work and environmental opportunities for Oregon's dairy industry. Criteser presented an overview of the cooperative's history, and its connecting to Tillamook family farms and other farmers across Oregon. Mulder discussed the on-farm operations and sustainability at the cooperative's production and processing facilities.

Mulder and Criteser discussed their thoughts for sustainability in Oregon's dairy industry. They also identified opportunities for better coordination among federal and state agencies to reduce regulatory conflicts due to multiple jurisdictions. The commissioners asked clarifying and informational questions about the cooperative and its work.

L. Informational item: Updates to Division 12 rules

Leah Feldon, Office of Compliance and Enforcement manager, Les Carlough, senior legal policy analyst, and Jenny Root, environmental law specialist, presented information about updates to DEQ's Division 11 and Division 12 rules that affect the enforcement program. Feldon noted that DEQ intends to bring proposed rules for commission action at the December 2013 EQC meeting.

Feldon provided an overview of the compliance and enforcement program at DEQ. Carlough described legislative changes in 2009 that allowed DEQ to research and develop proposed changes to program rules. He noted that DEQ met with many organizations as part of the advisory committee process to seek feedback on the proposed changes. Root described the draft proposed rule changes for the agency's Divisions 11 and 12, and their effects for all DEQ

programs. The commissioners asked questions about the agency compliance and enforcement program and the proposed rule changes.

M. Action item: Water quality permit fee updates

Greg Aldrich, DEQ Water Quality Division administrator, and Dennis Ades, Water Quality Division program manager, presented proposed rules for a fee increase of 2.9 percent for most water quality permits. Aldrich presented background information about the program’s funding structure and rule proposal information.

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

Move: Commissioner Blosser

Second: Vice-chair Armstrong

The commission unanimously approved the motion.

N. Informational item: Water quality temperature standards updates

Greg Aldrich, DEQ Water Quality Division administrator, Jennifer Wigal, Water Quality Division deputy administrator, and Dennis Ades, Water Quality Division program manager, presented an update about the agency’s next steps related to EPA’s August 2013 disapproval of some Oregon water quality standards. The update also responded to concerns presented by stakeholder and partner organizations at the August 2013 EQC meeting.

Wigal described EPA’s review and approval of DEQ’s antidegradation provisions within the water quality standards. She noted that DEQ intends to convene a group in September 2014 to discuss rule development pending additional information from the National Marine Fisheries Services and U.S. Fish and Wildlife late next summer. Wigal explained that DEQ will investigate opportunities for engagement prior to that formal group’s formation next year.

Ades presented information about the program’s long-term permit streamlining efforts and the issues associated with a current permit backlog. He described DEQ’s work to communicate with facilities and other organizations about the program’s approach and path forward. Aldrich provided additional clarifying information about the water quality permit program. The commissioners asked clarifying and informational questions about the water quality permitting program and Director Pedersen provided additional information about agency direction for the program.

Lunch and executive session

Commissioners, legal counsel and some DEQ staff met for a working lunch and executive session from approximately 12:10 to 1 p.m. The session was held pursuant to ORS 192.660(2) (h).

O. *This item was removed from the agenda*

P. Informational item: Annual self-evaluation survey results

Stephanie Caldera, commission assistant, presented the results of the commission’s annual self-evaluation survey. The survey informs DEQ’s Key Performance Measure 15 and is a requirement for annual reporting. The commissioners discussed the results of the survey and noted their concurrence with the findings.

Q. Informational item: Director’s dialogue

Director Pedersen presented updates on DEQ activities and projects of interest to the commission:

- Air quality outreach activities in Klamath Falls
- A fish consumption advisory issued by the Oregon Health Authority, in collaboration with the State of Washington, for resident fish in a portion of the Columbia River
- Concerns about air emissions associated with a cremation facility in northeast Portland
- The Title V permit update process for an Intel facility in Hillsboro
- Odors reported by north Portland residents in September
- The start of remediation work to clean up the former Astoria Marine Manufacturing Company site
- EPA’s decision to suspend the payment of penalties for some parties involved with Portland Harbor cleanup activities due to ongoing “good faith” cooperation by the parties
- A petition submitted to DEQ asking for reconsideration of the approved Title V permit for Daimler, a truck manufacturing facility in north Portland
- Ongoing implementation of DEQ’s nuisance odor strategy for permitted sources
- Permit applications DEQ has received for Oregon LNG’s import and export facility
- DEQ’s involvement with other states’ urging EPA to pass more stringent federal regulations for woodstoves
- Recent court rulings in California regarding its low carbon fuel standards
- Mercury emission reductions in Oregon
- Proposed new financing terms, of up to 30 years instead of 20, for new Clean Water Act
- Pedersen’s role as the new president of the Environmental Council of States
- The development of the agency’s operating budget
- Preliminary plans for the 2015 Legislative session
- His compliments to Jennifer Purcell for her organization and coordination of this commission meeting, and to Vice-chair Armstrong for his input about local issues.

R. Informational item: Commissioner reports

Commissioners presented verbal updates on their activities and projects of interest and relevancy to the commission.

Vice-chair Armstrong reported on his recent attendance at the Board of Forestry meeting, which focused on the 2013 wildfire season. He noted that he, Commissioner Rider and Greg Aldrich participated in a recent tour of the Trask Watershed and related study.

Commissioner Johnson reported that she is participating on an economics-focused task force for the Water Resources Department. The group is related to Senate Bill 839, which is about water storage projects, and will issue its report in February 2014. Director Pedersen noted that this

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Approved with corrections
Approved as presented

work relates to an opportunity for DEQ and the Water Resources Board to work in closer connection and a possible mutual liaison position similar to the Board of Forestry position.

Chair O’Keeffe reported that she represented the commission on a recent forestry tour in Lakeview at a wildfire site. She noted that she will represent the commission at a watershed meeting about the Trask Paired Watershed study in November. She reminded the commissioners to review the proposed dates for 2014 meetings.

Director Pedersen noted that this may be the last official meeting for Commissioner Blosser, pending appointment of a nominee for December. He and the commission thanked Commissioner Blosser for his service.

Chair O’Keeffe adjourned the meeting at approximately 2:15 p.m.

2013 EQC meetings
Dec. 11-12, 2013: Portland

2014 EQC meeting dates are not yet finalized