



August 12, 2022

Environmental Quality Commission
700 NE Multnomah Street
Suite 600
Portland OR 97232

Via Email: recruitment2022@deq.oregon.gov

Re: Draft minimum qualifications, required skills and desired attributes for hiring DEQ's next director

Dear Chair George, Vice Chair Baraso and Commissioners:

Our collective organizations appreciate the opportunity to comment on the draft criteria that will be used in hiring the next director of the Department of Environmental Quality (DEQ), who will succeed Richard Whitman. Our organizations represent thousands of Oregon employers from every business sector and region of the state. From small family farmers to large national and international manufacturers, our members employ hundreds of thousands of Oregonians that support Oregon families, the state's economy, schools, infrastructure and more.

This position is charged with leading the agency in its mission to protect Oregon's air, water and land as well as public health. Our organizations and our members work with the agency on a constant basis. DEQ regulates many of the businesses we represent and our members work to protect Oregon's natural resources through the diligent implementation of their permit provisions every day.

DEQ's regulatory programs have been expanded exponentially in recent years. The number, complexity and stringency of these programs has undergone rapid and dramatic change under this Commission's authority. As a result, the regulated community is facing a more challenging regulatory environment than ever before.

Regulatory expansion has had not only an additive effect, but has also resulted in difficult to navigate and even contradictory regulatory policies. For example, new Regional Haze rules require many permittees to further reduce SO_x and NO_x, which will increase natural gas combustion to operate air emissions technology. This requirement is in direct conflict with the more recently adopted Climate Protection Program, requiring deep reductions in GHG emissions on an extremely accelerated schedule. This example, in which a regulated entity undertakes action to comply with one regulatory program only to face agency enforcement for that same action because it is non-compliant with a different regulatory program, demonstrates the need for a director with deep, nuanced knowledge of DEQ's programs, a solid understanding of what is and isn't realistic for regulated entities, a willingness to listen, and exceptional problem-solving dexterity.

This simple but confounding example of contradictory regulatory programs is merely illustrative of the many challenges the regulated community is confronting. It is essential that the new DEQ director be committed to working with the regulated community to find solutions that protect public health and the environment and simultaneously consider the feasibility, complexity and cost of regulatory compliance.

Good leadership is not defined by top down, autocratic actions. However, the director will need to lead, manage and ask tough questions of staff, maintain a big picture perspective, be accountable for the agency's actions and fiscally responsible for the public resources it receives through taxpayer dollars. Over the last couple of decades, we have seen increasing pressure on the agency from activists. Courage may not typically appear in a job description, but the new director will need courage to make and stand by decisions in the face of public pressure and particularly with those for whom no regulatory program will ever be stringent enough.

Specifically, we urge the Commission to address the following:

- In draft required skills, include “**Strong** ability and experience in working with regulated businesses and other regulated entities.”
- A required skill is the “general familiarity with development of legislation, program rules and policies” and a desired attribute is a “general understanding of federal environmental laws. Given the intensely complex and continuing expansion of regulatory programs, we urge the Commission to require that candidates have much more than a general familiarity with legislation and rules.
- We also urge the Commission to upgrade “general understanding of federal environmental laws and programs” to a requirement. It should also be edited to require at least a “solid working knowledge” of all federal environmental laws that apply to DEQ and “expertise” in more than one. Oregon has many delegated programs for which DEQ implements federal statutes such as the Clean Air Act and Clean Water Act on behalf of the U.S. Environmental Protection Agency. Criteria that state only a preference (“desired”) for a director with a *general* understanding of federal environmental laws is wholly inadequate and could jeopardize Oregon's delegated regulatory programs. Further, we have observed a trend at DEQ for undertaking rulemaking that increases regulatory complexity and compliance costs when no clear problem has been identified. We've also seen the agency pursue rule changes that presuppose or identify theoretical problems with a program before a problem has surfaced. A director must have a thorough working knowledge of federal laws in order to provide managerial direction to staff so the agency does not undertake unnecessary, contradictory or overly stringent regulatory policies.

- Include the requirement “Experience with diverse stakeholder groups, and willingness to explore different perspectives and ideas.”
- Include a requirement that the director must possess effective problem-solving skills including an ability to think creatively to find balanced, win-win solutions focused on achieving objectives. Too often, we see extremely prescriptive proposals that create compliance challenges. The agency should focus on identifying objectives and be willing to consider solutions that achieve goals and minimize compliance challenges.

It is crucial that this position have the management skills to run an agency of the size and complexity of DEQ. An individual who only has ideological ties to DEQ’s mission will be unable to properly supervise and direct staff. In recent years we have seen more hiring of advocates with insufficient agency experience and this often leads to contentious interactions and poor outcomes.

The selection of the right person to lead DEQ is crucial. If Oregon is to retain existing businesses regulated by DEQ and encourage future business investment, the new director will need to look at the regulated community through a different lens. We are well aware of DEQ’s authority in regulating our members’ businesses, but the director should also view us as important partners and customers. The agency’s culture has shifted to a more adversarial relationship with regulated entities in recent years. Our members contribute mightily to Oregon’s economic health and its residents. Lives and livelihoods are inextricably linked. Good livelihoods support individual and community well-being by providing economic opportunity and security, benefits like health insurance and many others. So, while DEQ must continue to carry out its statutory obligation to regulate our members’ businesses, the future director must recognize the valuable contributions businesses make to Oregon and that economic prosperity, sustainability, and protection of public health and the environment are compatible.

Thank you for the opportunity to comment on the draft criteria. Please reach out to our organizations should you have questions about our comments.