



State of Oregon Department of Environmental Quality

Minutes: 412th Oregon Environmental Quality Commission meeting

Jan. 21-22, 2021: Teleconference (Zoom and telephone)

Thursday, January 21: Noon to 5 p.m.

- **Present:** Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Molly Kile and Commissioner Wade Mosby
 - *Chair George joined the meeting at 12:15 p.m., after the vote for Item A.*
 - *Commissioner Kile did not attend from 1:45 to 3:40 p.m. There were no action items considered or decisions made by the commission during this time.*

Welcome and meeting open

Vice-chair Baraso convened the meeting at approximately 12:08 p.m. Commissioners reviewed the agenda and made no changes or adjustments to the day's schedule.

A. Action: Meeting minutes

The commissioners reviewed the draft meeting minutes from the Nov. 19, regular, and Dec. 3, 2020, special EQC meetings.

Action: Approve as presented the meeting minutes from the Nov. 19, 2020, regular EQC meeting and Dec. 3, 2020, special EQC meeting.

Move: Commissioner Kile

Second: Commissioner Mosby

The commission unanimously approved the action as presented.

B. Informational: Commissioner reports

Director Whitman noted that Commissioner Greg Addington resigned from the commission at the end of 2020 to start his new role as Chief of Staff for Rep. Iverson. The commissioners noted their appreciation for Commissioner Addington's service on EQC, and expressed their thanks to him and best wishes for the new role.

- Commissioner Kile presented updates regarding her role as liaison to OWEB, including upcoming grant distribution decisions in March, climate committee work and work on wildfire recovery grant funding.

- Commissioner Mosby discussed his work as liaison with the Board of Forestry, including recent changes by that board to the buffers required for aerial pesticide spray near streams, homes and other structures on forested lands.
- Vice-chair Baraso provided updates about his work as director of the Portland Clean Energy Fund.

C. Action: NESHAP rule updates

Jaclyn Palermo, Air Quality Operations Manager, introduced the item and provided an overview of NESHAPs and how DEQ implements the federal regulations in Oregon. Dan DeFehr, Air Quality Operations Analyst, discussed the proposed rules and processes that DEQ uses to periodically update these rules. DeFehr discussed the proposed rule changes and described the agency's public engagement steps taken for the proposal. Commissioners asked clarifying and informational questions throughout the presentation.

- **Action:** Adopt the proposed rules seen in Attachment A as part of Chapter 340 of the Oregon Administrative Rules; and approve incorporating these rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; and direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.

Move: Commissioner Mosby

Second: Vice-chair Baraso

The commission unanimously approved the action as presented.

D. Action: VW Grants Program rules

Ali Mirzakhali, Air Quality Division Administrator, introduced this item and provided an overview of the VW settlement and subsequent grant program funded by that settlement. Gerik Kransky, Air Quality Planner, summarized the VW Grants Program, as established by the Oregon Legislature. He described the proposed rules, the advisory committee and public engagement process DEQ used to establish and refine the rules, and outlined the agency's plans for implementation. Commissioners asked clarifying and informational questions throughout the presentation.

Action: Adopt the proposed rules as seen on pages 29 through 42 of the report for this item as Division 255 of Chapter 340 of the Oregon Administrative Rules

Move: Commissioner Kile

Second: Commissioner Mosby

The commission unanimously approved the action as presented.

E. Informational: Regional Haze Program update

Ali Mirzakhali, Air Quality Division Administrator, introduced this item and described the goals of the Regional Haze Program. D Wu, Air Quality Planner, described the program, including the monitoring network for Oregon. Wu outlined the sources of visibility impairment and how Oregon measures its progress toward the goals of the program. Wu also summarized new analyses used by the program to understand the potential impacts on communities of color, people with low incomes and other

people who may be disproportionately burdened by pollution or otherwise with environmental justice concerns. Michael Orman, Air Quality Planning Manager, outlined the next steps for the Regional Haze Program. Mirzakhilili and Director Whitman provided additional clarifying information in response to commissioner questions and discussion.

F. Action: Water Quality Fee Rule corrections

Justin Green, Water Quality Division Administrator, introduced this item and provided background information on the proposal. Geoff Rabinowitz, Water Quality Permit and Program Development Manager, described the typographical and mathematical errors being corrected by the proposal. Commissioners asked about steps to ensure future rule changes and fee tables are accurate, and Rabinowitz described the agency's updated process for quality control and additional reviews.

Action: Adopt the proposed rules as seen in Attachment A, the fee table, and Attachment B, the rule language, of the staff report for this item as part of Chapter 340 Division 45 of the Oregon Administrative Rules.

Move: Vice-chair Baraso

Second: Commissioner Mosby

The commission unanimously approved the action as presented.

G. Informational: Clean Water State Revolving Fund updates

Justin Green, Water Quality Division Administrator, introduced this item and provided background information on the program. Lynn Barlow, Water Quality Community and Program Assistance Manager, outlined the goals and functions of DEQ's SRF program. Commissioners asked questions about the history and general function of the program to-date.

Lee Ann Lawrence, SRF Program Coordinator, described the lending processes, structure and potential changes to the process based on legislative action in 2019 that expanded DEQ's authorities for lending. Lawrence outlined the advisory committee process and public engagement to-date for the proposed changes. Commissioners asked clarifying and informational questions about the program and proposed changes. Director Whitman provided some responses in addition to the presenters' responses and commissioner discussion. Lawrence noted that DEQ intends to present rules for EQC consideration in spring 2021.

H. Informational: 1200Z Industrial Stormwater Permit updates

Justin Green, Water Quality Division Administrator, introduced this item and provided some background information on the 1200Z Industrial Stormwater General Permit. Christine Svetkovich, Water Quality Manager, described the functions of the 1200Z permit and the types of facilities subject to this permit across the state. Svetkovich described the history of industrial stormwater permits developed and implemented by DEQ since the early 1990s.

Director Whitman and Svetkovich described the rulemaking development process, and detailed the proposed permit changes. Director Whitman explained that the commission will be asked to take action on the permit, issuing it by rule rather than DEQ order, at the March 2021 meeting.

I. Informational: Racial justice and equity work at DEQ

Director Whitman introduced this item and outlined the intent and scope of the discussion. Nancy Bennett, Policy and External Affairs Management, discussed actions and proposals under development from Governor Brown's office, and how those proposals may affect DEQ and the commission. Bennett and Director Whitman described current data gaps and research needs for the agency to get a better understanding of disproportionate environmental burdens faced by people in Oregon.

Director Whitman presented a draft statement of equity, to be developed as part of the agency's strategic plan currently under development. He asked for commissioner feedback on the draft statement and noted a commitment to bring updates on the strategic plan and equity considerations to EQC meetings this spring. The commissioners discussed the draft statement, the September 2020 union resolution regarding equity and their commitment to these developments at the agency and commission level.

J. Action: Outstanding Resource Water designations for Waldo and Crater Lake

Justin Green, Water Quality Division Administrator, introduced this item and provided a brief overview of the agency proposal. Connie Dou, Water Quality Standards and Assessment Manager, described Oregon's Outstanding Resource Waters policy and the goals of ORW protections. Debra Sturdevant, Water Quality Standards Program Lead, described the background of the rulemaking development, including the initial petition for rulemaking that the commission received in late 2019.

Sturdevant described the location, ecological and cultural importance and recreational uses of Waldo and Crater Lake. She outlined the rulemaking process, including public engagement and comment opportunities. Sturdevant summarized the comments DEQ received and some changes made in the final proposed rules for commission consideration. Director Whitman provided additional summary information about the proposed rule language. Commissioners asked clarifying and informational questions throughout the presentation, and took action on the proposal in two separate motions.

Action 1: Adopt the amendments to OAR 340-041-0004 and 340-041-0185, as seen in Attachment A for this item, to designate Crater Lake as an Outstanding Resource Water for the State of Oregon.

Move: Commissioner Kile

Second: Commissioner Mosby

The commission unanimously approved the action as presented.

Action 1: Adopt the amendments to OAR 340-041-0004 and 340-041-0345, as seen in Attachment A for this item, to designate Waldo Lake as an Outstanding Resource Water for the State of Oregon.

Move: Commissioner Mosby

Second: Commissioner Kile

The commission unanimously approved the action as presented.

Following the commission actions, Chair George and Director Whitman expressed their thanks to staff, federal partner agencies and the people who engaged with and commented on the proposals. Chair George invited comments from Duane Bishop, U.S. Forest Service, and Craig Ackerman, National Parks Service, regarding the EQC action to designate Waldo and Crater Lakes, respectively, as Outstanding Resource Waters for the State of Oregon.

K. Public forum

Chair George opened the public forum at 4:30 p.m. Six people signed up to present comment.

1. Kathy Moyd, League of Women Voters of Oregon, presented comments regarding climate change issues and regarding DEQ's implementation of Executive Order 20-04 for greenhouse gas emissions reduction.
2. Jessica Winter-Stoltzman, consultant for Yakama Nation, presented comments regarding the draft 1200Z Industrial Stormwater General Permit.
3. Dale Feik, Washington County Citizen Action Network, presented comments regarding racial justice and equity work, generally, at DEQ.
4. Professor Janet Lorenzen, Willamette University, presented comments regarding the Climate Protection Program being developed by DEQ and expressed concern about the agency's slow integration of equity in the rules advisory committee for that program.
5. Zach Baker, Climate Solutions, presented comments regarding the composition of the Climate Protection Program's advisory committee and perceived over-representation of industrial interests influencing that development process.
6. Stuart Liebowitz, Douglas County Climate Coalition, presented comments regarding climate change and expressed concerns regarding DEQ's implementation of Executive order 20-04 for greenhouse gas emissions reduction.

Chair George recessed the commission at 4:52 p.m. until 8:30 a.m. on Friday, Jan. 22, 2021.

Friday, January 22: 8:30 a.m. to 1 p.m.

- **Present:** Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Molly Kile and Commissioner Wade Mosby

Welcome and meeting open

Chair George reconvened the meeting at approximately 8:30 a.m.

L. Informational: Diesel emissions reduction

Ali Mirzakhali, Air Quality Division Administrator, introduced this item and provided a summary of the presentation. Matt Davis, Air Quality Senior Policy Analyst, provided a summary of the July 2020 presentation to the commission regarding diesel emissions. He thanked the staff from a variety of Air Quality Division programs who worked on the presentation materials and associated research on these topics, and thanked the commission for its continued engagement on diesel issues.

Davis outlined the legal authorities related to diesel emission controls in Oregon under the federal Clean Air Act. He also summarized the current programs and policies in effect in Oregon related to diesel emissions reduction. Commissioners asked clarifying and informational questions throughout the staff presentation.

Mirzakhali introduced the three panelists for the item:

- Amy Schlusser, Green Energy Institute
- David Breen, Port of Portland
- Dennis McLerran, Cascadia Policy Group

Schlusser described the work of the Green Energy Institute, and outlined federal and state opportunities to control and reduce diesel emissions. Schlusser noted that indirect source rules are one of the most flexible and successful ways to reduce and regulate emissions, and urged the commission to consider policies and rulemaking to strengthen Oregon's indirect source programs.

Breen described actions taken by the Port of Portland to reduce diesel emissions at its facilities, and reflected on the Port's reliance on diesel as a ubiquitous fuel for heavy equipment. He outlined the Port's strategies for emissions control and reductions, and discussed both the limits of and opportunities to implement these strategies.

McLerran described programs established by states and regulatory entities along the west coast, with his work focused in the Puget Sound area in Washington. McLerran outlined the ways these programs centered on reducing disproportionate health and environmental burdens faced by the communities of color, low-income people and others especially vulnerable to air pollution in these areas.

Commissioners discussed the panelists' presentations and asked a number of clarifying, informational and general follow-up questions. DEQ staff and Director Whitman provided additional responses as part of the discussion. Mirzakhali noted key challenges and opportunities faced by DEQ when controlling and reducing diesel emissions, and Michael Orman, Air Quality Planning Manager, described upcoming commission and agency actions planned in the next several years. Orman noted that some of the activities would require commission action as formal rulemakings. Director Whitman provided closing remarks, and the commissioners provided their individual feedback on the information and agency programs discussed.

Following the panel presentations, Chair George opened a comment opportunity specific to diesel emissions reduction. Seven people signed up to present comment. Each commenter offered their feedback on the presentations, and encouraged the commission to take action on diesel emission reductions. The speakers' list, with organizational affiliations if provided, was:

1. Dale Feik, Washington County Citizen Action Network
2. Victoria Paykar, Climate Solutions
3. Aimee Okofie Oyekan, Eugene-Springfield NAACP
4. Sara Wright, Oregon Environmental Council
5. Peter Hurley, City of Portland Bureau of Transportation
6. Mary Peveto, Neighbors for Clean Air
7. Stuart Liebowitz, Douglas County Climate Coalition

M. Discussion: Public engagement opportunities at EQC meetings

Director Whitman summarized the agency recommendation for engagement structures at EQC meetings. He noted that some rulemaking activities are subject to state rules and limits related to comments; however, he noted that DEQ could begin scheduling specific rulemaking hearings before the commission on high-profile and significant rulemakings, at the commission's discretion. Stephanie Caldera, commission assistant, provided additional context for past commission practices and opportunities. Commissioners provided their feedback on the proposed engagement structures and opportunities, and discussed ways to ensure people attending meetings are provided information in advance for understanding commenting processes and how to engage with the commission.

Following commissioner discussion, Chair George opened a comment opportunity specific to this item. Four people presented comment and feedback, all supporting the commission having more opportunities for engagement and clear expectations for attendees. The speakers' list, and organizational affiliation if provided, was:

1. Kathy Moyd, League of Women Voters of Oregon
2. Clair Klock, Clackamas Soil and Water Conservation District
3. Dale Feik, Washington County Citizen Action Network
4. Kathryn VanNatta, NW Pulp and Paper Association

N. Informational: Director's report

Director Whitman summarized written entries provided in the report for this item and provided additional verbal updates on agency, state and federal activities and issues of interest to the commission. Commissioners asked clarifying and informational questions throughout the presentation.

Chair George adjourned the regular meeting at 12:53 p.m. Following adjournment, the commission held an executive session by teleconference and pursuant to ORS 192.660(2)(f) and (h) from 1 to 2:15 p.m.



State of Oregon Department of Environmental Quality

Minutes: Oregon Environmental Quality Commission special meeting

March 3, 2021: Teleconference (Zoom and telephone)

This special meeting was held by teleconference jointly with the Oregon Board of Forestry

Wednesday, March 3: 10 a.m. to 12:30 p.m.

- **Present:** Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Molly Kile and Commissioner Wade Mosby

Welcome and meeting open

Board of Forestry Chair Tom Imeson convened the special joint meeting at 10 a.m. and provided an overview of meeting protocol. Following roll call of the board and commission members, the chairs jointly reviewed the special meeting agenda.

1. Opening statements

Oregon State Forester Peter Daugherty and DEQ Director Richard Whitman provided opening statements about the relationship between agencies and among the respective boards for the protection of Oregon's air and water. They discussed the liaison roles and annual joint meetings of the two bodies, and the staff-level collaborative work.

EQC Chair Kathleen George thanked the commissioners, board members and all attendees, and noted the missions of both DEQ and the Department of Forestry. She discussed the importance of collaborative work between boards and also between staff. Board of Forestry Chair Tom Imeson reflected on the agency and board work over the years, and recommended the re-establishment of joint EQC and Board of Forestry tours when COVID-19 restrictions are lifted and it is safe again for in-person meetings.

2. Smoke Management Program updates

Doug Grafe, ODF, Michael Orman, DEQ, Nick Yonker, ODF, Margaret Miller, DEQ, and Gabriela Goldfarb, Oregon Health Authority, co-presented this update on the outcomes of the Oregon Smoke Management Program in the 2019 and 2020 burn seasons. Grafe introduced the item and noted Yonker's upcoming retirement. The board, commission and agency staff recognized Yonker's work at the Department of Forestry since 1990, and thanked him for his service.

Yonker outlined the goals of the Oregon Smoke Management Plan, and program operations after the rule updates approved by the board and commission in 2019. He summarized statistics related to the 2019 and 2020 burn seasons.

Miller described the best practices and emission reduction techniques for prescribed forest land burning, including the use of polyethylene tarps over collected piles to keep the wood dryer before

burning. She noted that a workgroup convened by Governor Brown has directed agencies to continue studying alternatives to burning as a forest management tool. Miller also described communication and outreach improvements by the agencies in 2019 and 2020 in communities across the state.

Goldfarb described health concerns related to smoke, and the role of the Health Authority for prescribed forest land burning and smoke management. She summarized the unique challenges of the 2020 burn season in relationship to COVID-19 and the continued multi-agency collaboration of the Oregon Smoke Management Program and Plan.

Commissioners and board members asked clarifying and informational questions throughout the presentation. Director Whitman and State Forester Daugherty provided some responses, in addition to the replies from the staff presenters.

3. Water Quality collaboration updates

Kyle Abraham, ODF, introduced this item and noted that co-presenters from the Department of Justice would participate in addition to Forestry and DEQ staff. Jennifer Wigal, DEQ, described DEQ's statutory responsibilities to protect water quality in Oregon, and summarized the programs DEQ operates to fulfil these responsibilities.

Diane Lloyd and Matt DeVore, DOJ, described the legal background and obligations for DEQ and Forestry, respectively, and legislative direction for the agencies to collaborate in protection of Oregon's waters. Following the legal summary, Abraham and Wigal outlined a draft Memorandum of Understanding between DEQ and Forestry related to these authorities and collaborations. Commissioners and board members asked clarifying and informational questions throughout the presentations.

Following the staff presentation, Jamie Damon, a facilitator with Kerns and West, noted that commissioners and board members received several discussion questions for their consideration. Damon facilitated conversation among the presenters and board and commission members on these questions.

Chair George adjourned the special meeting at 12:30 p.m.
