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## MEETING NOTES

### Energy Advisory Work Group

Thursday, April 9, 2020

1 – 3 p.m.

Remote Webinar

Meeting Attendees		
EAWG Members	Guests	ODOE Staff
Angela Crowley-Koch, OSEIA Annette Price, Pacific Power Bridget Callahan, Sustainable Northwest Fred Heutte, NW Energy Jana Gastellum, Oregon Environmental Council Jennifer Joly, OMEU – attending for Nate Rivera Keith Kueny, Oregon Community Action Partnership Lee Rahr, Sustainable NW Nicole Hughes, Renewable Northwest Nels Johnson attending for Bill Edmonds. NW Natural Rebecca Carey-Smith, Portland General Electric Roger Kline, Northern Wasco County PUD	Alec Shebiel - Umatilla Electric Co-op Amanda Dalton (Association of Oregon Counties) Andrew Kenefick Arthur Haubenstock Beth Reiley (Legislative Policy & Research) Betsy Earls Craig Ernst Danelle Romain (OPUDA) Dave Elizabeth Howe Eryan Andries Gabriele Peterschmidt Gary Heikkinen Hanna Cruz Hassina Wittenberg  Eight additional unknown attendees by phone/Zoom.  Names recorded as they were entered into Zoom.	Ian Jay Ward Jen Visser Jeni Hall JenniC Jim Kincaid Cable Huston LLP John Chelminiak Jordan Bice Ken Dragoon Kurt Miller Michelle Slater Miles Pengilly Montana Lewellen (Western States Petroleum Association) Nidhi Thakar Nora Apter Preston Mann Richard Devlin T Marks Tammy Dennee Tyler Ernst Zach Baker
		Adam Schultz Alan Zelenka Blake Shelide Cathy Connolly Erica Hertzsch Janine Benner Jennifer Kalez Jessica Reichers Ken Niles Max Woods Michelle Miller Harrington Ruchi Sadhir Todd Cornett Warren Cook  Kristen Sheeran, Energy and Climate Change Policy Advisor to Governor Kate Brown; Director Carbon Policy Office

Meeting Materials: [Uploaded to website here.](#)

## Welcome and Agency Update: ODOE Director Janine Benner

Janine gave an update on ODOE's COVID-19 response.

- ODOE continues to function during the COVID-19 pandemic thanks to our IT team. Our staff are set up to work remotely, with around five people working onsite. We do not plan to slow down on projects or deliverables.
- The Energy Facility Siting Council (EFSC) will hold a zoom meeting with a full agenda at the end of April. They anticipate moving forward with most items; however, one challenge is a requirement in statute for EFSC to hold a public hearing on an application for a site certificate "in the affected area." One project with a hearing scheduled for the April council meeting has been postponed. We are exploring this requirement while staying aligned with the Governor's stay-at-home directive in the likely event that the directive is not lifted before May. This has been flagged as an area to possibly address if there is a special session.
- ODOE has an emergency response role during the COVID-19 situation, with the Oregon Fuel Action Plan being activated in response to this. We are working closely with Oregon's petroleum distribution terminal, fuel haulers, Western States Petroleum Association, Oregon Fuels Association and the Pacific Propane Gas Association to monitor impacts to the states fuel supply and distribution system.
- ODOE participates in various calls and updates to gain state, regional and national awareness, and to ensure a common operating picture. Deana Henry, our emergency management point person, participates daily in statewide coordination calls and updates. These include 33 state agencies, 36 counties and 9 federally recognized tribes. She is also participating in weekly regional calls with Region 10 states (Alaska, Idaho, Oregon, and Washington) to assess impacts of COVID-19 to the energy sectors. We are doing weekly calls with State's Joint Information Center, and weekly calls with our national partners: US Department of Energy, NASEO, Energy Emergency Assurance coordinators in the 50 states.
- A member of our communications team is working with the State Joint Information Center as a part of the Emergency Coordination Center.
- ODOE is following several fuels issues:
  - We are working with the Oregon Department of Agriculture and Oregon Department of Environmental Quality to issue a temporary ruling which allows fuel companies to continue selling winter grade gasoline after May 1. Normally the fuel industry would transition to lower volatility summer grade fuels, but there is a surplus of winter grade fuel remaining in the system due to stay-at-home directive. The EPA responded by issuing a federal waiver. ODOE is working with partners at the state level to ensure Oregon's waiver is consistent with the federal one.
  - We are monitoring the growing surplus in fuel supplies due to the reduction of travel which could impact refinery and pipeline operations resulting in a fuel shortage in Oregon. Fuel reports show that gasoline consumption is down more than 50%, jet fuel consumption is down 50-70% and diesel is down 15%. We have assisted the Oregon State Fire Marshall in clarifying the suspension of the self-serve gas ban in the state and what that might mean at the pump. We are working with the fuel industry to identify needs for personal protection equipment, masks, gloves and hand sanitizer as critical workers. ODOE will continue to stay active throughout the

State's emergency response due to COVID-19 to address fuel issues and concerns, and to assure Oregonians will have a reliable source of fuel.

- Janine acknowledged the hard work of those in the energy industry from gas to utility line workers for keeping the essential services running. We appreciate being able to have energy both at home and work.
- Social distancing measures put in place are having an economic impact on Oregonians. We are tracking potential State budget impacts due to the response to COVID-19. The State's revenue forecast is coming in May, with a significant expected downward revision for the general fund from tax and lottery funds. Agencies have been instructed to slow non-critical spending which means holding non-critical positions vacant. ODOE has one recruitment for the Government Affairs position, which is critical to our agency, but we will be looking at any other positions as they come open.
- Congress passed the CARES Act into law at the end of March. The low-income home energy assistance program (LIHEAP) was allocated \$900 million nationwide, along with one other non-energy program that could benefit small energy firms and non-profits. The Small Business Association Paycheck Protection Program provides loans to small businesses and can be forgiven if certain requirements are met. We are tracking discussion on other stimulus bills working through the National Association of State Energy Officials, and others, to see what Congress might do for economic stimulus and making sure that energy is part of that conversation.

Janine took questions from EAWG members prior to moving on to non-COVID-19 related activities.

### **EAWG Member Questions**

Fred Huette – NW Energy Coalition. Fred asked what discussions ODOE is having with utilities in the state as to effects on demand, or other aspects we should be concerned about from the Department's perspective? – Janine responded that Kristen Sheeran from the Governor's office is on point for this issue. Kristen indicated that the Governor's office has been coordinating with utilities and asked the consumer-owned utilities if they would speak on the issue.

Roger Kline - Northern Wasco County PUD has seen reduced loads in the residential and the commercial sectors, due to business closures. In The Dalles, they serve data centers where loads are up. They have suspended all disconnects and late fees and have turned those who had been disconnected back on.

Fred added that EnergyGPS<sup>1</sup> has noted that demand is down in California during the day, with normal levels in the evening. There have been issues with solar curtailment, and gas is down as well. He thanked the utilities for addressing concerns about shut offs.

Kristen Sheeran added that the Emergency Coordination Center has been meeting regularly with investor- and consumer-owned utilities to make sure essential service providers are able

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<sup>1</sup> An energy analysis and consulting firm.

to maintain their systems of operation. They are updating them on recommendations for best practices to keep their staff safe while they do essential work. The Governor's office offered appreciation for the work our energy companies are doing to keep Oregon moving while the rest of us shelter-in-place. Investor-owned utilities have adopted a policy of no disconnects and no late fees during the crisis period. Consumer-owned utilities are doing this as well, along with those who have not adopted this as policy. They are working within their communities to make sure the essential services remain uninterrupted. The Governor's office is having conversations with Oregon Housing and Community Services and the legislature around the sizeable need for additional funding for energy assistance. They are anticipating an influx of dollars from the first federal relief package to come in for LIHEAP.

Keith Kueny gave a quick update from the low-income perspective: Community Action Partnership of Oregon along with the investor-owned and consumer-owned utilities are putting together a \$30 million request to the State COVID committee. They expect to hear back in a few weeks. Utilities are concerned about revenue flow. There will be an additional \$900 million in the form of a LIHEAP statewide program, and another \$4.3 billion request in the next round of the federal stimulus. Oregon will get 1% (\$43 million) in the allocation, which is higher than the standard \$33 million during a traditional year.

Jana Gastellum, Oregon Environmental Council, asked whether there was an analysis on air quality impacts using winter gas blends during summer months. Kristen addressed this question: DEQ has been part of the conversation.

Janine gave an update on ODOE's other activities since the last EAWG meeting:

- ODOE has updated the [Electricity Resource Mix](#). The website was updated with 2017 data and allows consumers to see where their electricity comes from. It will be updated with 2018 data this summer. Janine thanked the utilities partners for providing data and working with ODOE to communicate this data accurately.
- Three white papers are still in progress and will be shared soon, covering Resource Adequacy, Energy Storage, and 100% Clean Energy Standards.
- EFSC has been working on rulemaking related to solar photovoltaic power generation facilities. The fifth and final Rules Advisory Committee met on March 9. Siting staff will present draft proposed rules and request that the Council initiate a formal rulemaking at the April 24 meeting. The draft proposed rules contain new provisions intended to clarify criteria and procedures for determining when a PV facility is an energy facility subject to the State's siting process. They make technical changes to existing procedural rules to implement HB 2329 from the 2019 Legislative Session. The draft proposed rules are consistent with rules adopted by Land Conservation and Development Commission, other agencies and considered feedback from EFSC and the Rules Advisory Committee. If Council approves staff's request to initiate formal rulemaking proceedings, they will likely hold a rulemaking hearing at the June 26 meeting.
- Oregon Solar + Storage Rebate Program, which the legislature authorized in 2019, has had 30 rebate reservations for low income service providers, 32 for low- and moderate-income residents, and 103 for non-income restricted residents. Of those reservations, 61 rebates

have been issued for total of \$109,888. On April 18, ODOE will make an additional \$375,000 available for non-income restricted projects. There is still money available for low- and moderate-income projects. Earlier this year, additional pathways for low- and moderate-income were added for customers to demonstrate eligibility. One COVID-19 related challenge we are running into is with how to safely do on-site inspections.

- The Small-Scale Energy Loan Program (SELP) is subject to financial audit from the Secretary of State's office each year; ODOE recently received a clean audit with no significant findings. Last week we closed a refunding of \$24.3 M in SELP Bonds. We worked with the Treasury Department to take advantage of a low rate on bonds, resulting in a net savings of over \$2 million. The current cash flow deficit for SELP funds is \$8 million, refunding should have a measurable impact in the next biennia.
- We spoke previously about the [Oregon Renewable Energy Siting Assessment](#), the Department of Defense grant which looks at renewable energy siting. ODOE appreciates the help the EAWG gave putting the word out about the Renewable Energy Assessment RFP. That RFP closed and we are now in the contracting phase with a consultant for the [Renewable Energy Market Assessment](#). Once that consultant is officially on board, they will begin pulling stakeholder input together.
- There are two additional RFPs up for bid now, one is focused on military needs and the other is concerned with development opportunities and constraints; land use, economic development, natural resources, etc. [You can find more information here](#). The RFP closes on May 4.
- ODOE paused work on [strategic planning](#) during the 2020 legislative session. We are integrating feedback from stakeholder groups on the clarity elements which include vision, mission and position, and hope to share these later in the spring. We will be seeking feedback from the EAWG and others on the phase two elements which covers turning the strategic imperatives into an actual strategic plan.
- On February 24, after scheduling changes, Janine provided a report on ODOE's budget note to the Ways and Means committee. It was well received and approved. This was an opportunity to let the Committee know what ODOE has been up to and how we are addressing the questions that they have raised. [Presentation materials](#) are available online.

### **EAWG member questions**

Jennifer Joly – Oregon Municipal Electric Utilities, asked about the White Papers: who are they for and what is the aim behind them? Janine explained that ODOE has received questions about these topics over the last few months from the public, stakeholders, and the legislature. In response, ODOE is putting together explanatory papers on the state of technology and what is happening in Oregon.

Jessica offered that the papers are meant to be informative. How do we assess resource adequacy and how do we address it from a policy perspective? With energy storage, what more recent options for storage are available in the electric system? Finally, a discussion on clean energy and clean energy policies that are happening with a focus on the western part of the U.S. The paper gives a high-level overview of current clean energy activities around the western united states. Alan added there is a focus on utility scale energy storage. Analysis on resource

adequacy will consider the scenario of potential future of coal plant retirements across the west and how that impacts resource adequacy

Jennifer Joly addressed the budget note presentation, looking at the economic impacts to utilities in terms of declining loads, and the difficulties for our members to pay their residential bills under the lack of employment; what are the thoughts at cabinet level as you are putting together state budgets considering the Energy Supplier Assessment? Have you considered scaling things down in light significant impact to utility revenues?

Janine replied this is on our radar; while the state is focused on response to COVID-19 and wanting to keep people healthy and safe, we have started having conversations and everything is on the table.

Rebecca, regarding the Resource Adequacy White Paper, given the timing of the Northwest Power Pool Process, and UM 2024 at the OPUC; how are you considering that timing with your white paper, particularly if you are making policy suggestions? Secondly, what data sources and third parties are you using to inform that?

Jessica stated that ODOE is not making policy recommendations, rather the white papers are meant to inform the discussion. In the paper we explain which policy levers decision makers can work with when assessing resource adequacy.

Adam added that the paper is designed as a Resource Adequacy 101 backgrounder, that addresses key policy dimensions, and how different regions evaluate resource adequacy. ODOE will not duplicate the efforts that are out there, however, we reference these. How you evaluate on a utility basis versus a regional basis; how you evaluate annually versus seasonally; and what kind of resources are out there that can provide capacity - such as demand response and storage.

Alan added that ODOE will not do its own loss of load probability analysis but will set the stage to have the conversation in Oregon and hopefully the region. Rebecca responded that conversation is already happening in Oregon and suggested alignment with those. Janine clarified that ODOE staff is aware of and coordinating with other entities in the state who are also working on these issues.

### **EAWG Members Roundtable and Introductions**

**Keith Kueny** - Community Action Partnership. They are dealing with working remotely while taking client applications for energy assistance. When their clients come into the office, they are evaluated for other benefits such as weatherization, however, this is more of a hurdle to assess remotely. They are working on a mailout program and looking at new ways to remotely bring clients into the program. They are worried about once the moratorium on disconnects ends, clients will have large bills, and they will not be able to pay. The rate discount bill last year failed; however, they would like to have rate discounts as a tool, along with cash assistance to

continue.

**Lee Rahr** - Sustainable NW. Sustainable NW are working from home and are closely tracking Gov Brown's Executive Order on climate. Next week they will have their monthly '*Making energy work for rural Oregon*' call where they will give an overview of Oregon's path to 100% renewables. Speakers will include Fred Huette and Matt King from Walalla Resources speaking. Lee encouraged everyone to participate by contacting her or Bridget for the call-in number. They continue to provide support to SNW's rural partners. SNW has found that many folks in rural Oregon are busy in the field doing their work. Their life isn't interrupted as much as others have been. SNW provides services remotely and appreciates zoom platforms to do this.

**Rebecca Carey-Smith** - Portland General Electric. PGE is divided into two groups. One group is focused on responding to the COVID-19 crisis so people can work safely, while providing reliable and affordable electricity to their customers. PGE is working with several stakeholders, including CAPO, to provide tools and support systems for residential and business customers as they navigate this uncertain economic time. The second group is trying to keep the general day-to-day business going from dockets at the PUC to products and services that their customers want.

**Kelsey Wilson** - Western States Petroleum Association. Brian Doherty retired from Western States Petroleum Association (WSPA) since session ending. She and her business partner Fawn Barry have taken over the contract representing WSPA. They are looking forward to participation in this group. The waiver mentioned earlier has been the focus for WSPA over the last few weeks.

**Jana Gastellum** - Oregon Environmental Council. OEC is an advocacy group; they are looking at how to support others during this crisis. OEC sent a letter regarding the \$30 million that Keith mentioned earlier (LIHEAP). OEC is helping with water shut offs and making sure people have the basic services they need. OEC has a new Climate Program Director, Nora Apter; who previously worked for Senator Wyden and most recently was in DC working for NRDC. They are excited about Governor Brown's Executive Order and are looking forward to implementation conversations. Across OEC's program areas, there is a rural partnership initiative, where the discussion is how COVID-19 is impacting our different partners, including things like basic access to broadband. The crisis is showing where we have gaps in our systems. OEC is also interested in what is happening with air quality as we change some of our patterns and energy use demands now.

**Nels Johnson** (on behalf of Bill Edmonds) - Northwest Natural. NWN are dealing with COVID-19 affects, by working with OSHA, the Governor's office, and other agencies to make sure they can do essential work, and to make sure pipelines are up and running, safely. All non-essential workers are working from home, which they will continue for the foreseeable future. They have worked with other utilities, agencies and CAPO to advocate for additional funds for their low-income customers. No disconnects for the duration of the crisis.

**Fred Huette** - Northwest Energy Coalition. NWECC offered great admiration for work the electric

and gas utilities are doing, especially electric - on which we all depend on power - for ourselves, hospitals, and clinics. This emergency has also revealed how dependent everyone is on the internet which is also dependent on the power system. NWECC's priority during COVID-19 was to focus on protecting gas and electric customers. They have focused on shut offs and reconnections for energy customers, signed on to letters, talked to utilities and commissions, and are involved in the effort to increase the LIHEAP funding, and low-income weatherization going forward.

Fred has been engaging with ODOE on the renewable energy assessment and resource adequacy. He feels that ODOE, especially during this time, has a crucial role to help with fuel security, and as the recovery process goes forward, to help guide, coordinate and provide advice at every level. He is pleased that the '*Making Energy Work*' presentation is an opportunity to connect and discuss the broader concept on how to move forward, and to think about what coordination and collaboration between local governments, community groups, developers and utilities. They are looking at Utah for some new ideas but want to have an all-Oregon approach. Janine indicated that she worked on the 2008 stimulus bill on the congressional side and agreed that cohesion and collaboration amongst folks at state level is necessary.

**Angela Crowley-Koch** – Oregon Solar Energy Industries Association. Renewable NW and OSEIA are working hard to see that energy and solar are included in the next Federal stimulus package. They would like to see the investment tax credit extended. In addition to recession, they see problems with tax equity and how it impacts larger utility scale projects. They are exploring the 1603 Grants from the first stimulus package which will do away with the tax equity issue for large scale renewable projects. They are grateful that Governor Brown allowed solar installations to continue and are taking safety precautions with these. While seeing a dip in sales, they feel it will go pick up depending on the larger economy. They are excited to learn more about EO 20-04 and plan to be engaged in that.

**Roger Kline** – Wasco County PUD. Wasco County is embedded in the regional incident command system structure for Wasco, Sherman, and Gillam counties. They have been working on safe provision of electric services, supporting other agencies in the incident system, and helping with the supply chain for personal protection equipment. They are all hands-on deck working on reconnects and a fully functioning infrastructure. They are focused on internet provision, safe provision of water, and continued provision of electric service. They are working on the Columbia River operation system draft environmental impact statement comment period. Roger is a board member of NW River Partners and the Public Power Council. Wasco County want to make sure as a carbon free energy provider, that hydro maintains its place in the Northwest.

**Kerry Mead** – Northwest Energy Efficiency Council. NEEC are working remotely. Typically, they do in-person trainings and face-to-face events. They are offering a building operator certification program and will slowly move courses online. Today they offered one in San Francisco. They are accelerating a long-term plan to move training online and are discussing with their partners a type of online clearinghouse for those in facilities and other energy

efficiency stakeholders. Finally, they are focused on launching a conference this fall. This event may be rescheduled due to the current situation.

**Annette Price** – Pacific Power. They have seen some personal protection equipment issues; however, their procurement team has remedied this. They are working remotely to keep the grid operational. They appreciate the leadership of Keith and CAPO, who pulled together a coalition in support of energy assistance and appreciate the utilities for making sure their customers aren't facing shut off. In dealing with the pandemic there is a new issue every day, and they appreciate patience with state agencies and the Governor's office.

**Jennifer Joly** (Representing Nate Rivera) – Oregon Municipal Electric Utilities. OMEU are decentralizing operations to limit the impact COVID-19 might have on line-crews. They have been engaged in conversations with the Governor and others in relation to testing and personal protection equipment and have been working with the Emergency Operations Center on issues as they have come up. She thanked the State for their efforts there.

## **ODOE Updates**

**Executive Order 20-04 Implementation** - Kristen Sheeran, Governor's Office. Kristen gave a presentation on the Governor's Executive Order (EO 20-04). Within 48 hours of giving the order, schools closed, and the Governor's offices were vacated due to the COVID-19 situation. Work continues to move forward on EO 20-04, which sets new GHG emissions reduction goals for the state. These are the same legislative goals from previous session to set carbon policy based on the best available science for emission goals at this time: 45% reduction by 2035 and an 80% reduction of the 1990 line by 2050. It directs a specific list of agencies, including ODOE, to within their existing statutory authority, advance the emission reduction goals of the executive order and address the impacts of climate change on Oregonians with a particular focus on rural, low income communities, and communities of color who are at the frontlines experiencing climate change impacts.

The directives in the second part of EO 20-04 are aimed at specific agencies with particular outcomes. ODOE is directed to update energy efficiency standards for a list of consumer products and appliances ([the list is in the EO](#)), to ensure that Oregon continues to occupy a leadership role on the West Coast. ODOE is also mentioned in directives to collaborate alongside other agencies:

- A collaborative consulting role with the Building Codes Division for advancing energy efficiency goals in the built environment, particularly with residential construction working towards a 60% improvement in energy use by the year 2030 by guiding the GHG benefit and economic impacts of moving in that direction through residential building codes.
- ODOE joins DEQ, ODOT and DLCD in a joint agency effort on the statewide transportation strategy, to move the state forward on addressing greenhouse gas emissions from the transportation sector. EO 20-04 requires a work plan to be in place by the end of June.

- The EO requires a report to Governor by May 15 2020, on detailed plans for implementation on the specific directives: involving stakeholders; including impacted communities in the process; identifying how the agency will prioritize acceleration of GHG reductions with rulemakings, dockets, and legislation; prioritizing the plan's order with a climate lens; and how agencies can, within their statutory discretion, meet the spirit and goals of EO 20-04.
- As the agencies move towards implementation of the directives, they will build in robust opportunities for stakeholder engagement. The state will continue to move forward with EO 20-04 despite the COVID-19 crisis. We anticipate a bad forest fire season in Oregon; however, we can't take a break from one crisis to deal with another. The May revenue forecast will reveal more fiscal information about the work and priorities of the State and how we will move forward over the course of the next year. The first deadline is the May 15 reports.

ODOE is working on both specific and general directives including appliance standards which will be addressed under the Legislative concepts. In order to update the standards, ODOE first conducts a rulemaking, after which legislation needs to pass to align the new rules with statute. Looking at our existing programs specifically in relation to GHG reduction, we plan to seek stakeholder feedback regarding ODOE's existing programs, and where more can be done. Janine asked the EAWG members for feedback on more general directives per these prompting questions:

1. What are your thoughts on agency opportunities, especially as it relates to ODOE work?
2. Are there specific activities and programs at ODOE that you would suggest enhancing, accelerating or changing to facilitate GHG reductions?
3. Do you have ideas for new actions that the agency could pursue?
4. Would you like to be included in stakeholder outreach on product efficiency standards for rulemaking and legislative concept development?
5. Are there other elements from the Executive Order that are particularly relevant to your organization and its intersection with ODOE work?
6. Are there opportunities to incorporate an energy perspective in broader state government activities under EO 20-04?

## **Review/Feedback**

Jennifer Joly asked whether the May 15 Reports will be publicly available? Kristen said they would be available online.

The Renewable Hydrogen Alliance would like to see greater emphasis on the role of power-to-fuels for both transportation electrification (fuel cell electric vehicles) and energy storage.

Jana Gastellum said she appreciates the items Janine put forward, specifically the concepts around streamlining EFSC rules in order to facilitate renewable energy, resilience, and emissions reductions; updating the CO2 standard; and the STS implementation in the medium and longer term around these themes. She said decisions today will affect the goals in 2035 and

2050.

Todd Cornett, ODOE's Assistant Director for Siting, clarified that for the CO2 standard, there are two prime areas for defining statute. We have updated both of those in the last three years, one is monetary offset rate (can be increased or decreased every two years by max of 50%). They are initiating the rulemaking of that offset rate by a maximum of 50% which will still be below the market rates.

Angela offered that they appreciate that EFSC is streamlining the process. They would like to see more funds for solar rebates, since this has been successful. Finally, it would be good to see ODOE talk about Energy Resiliency especially with Solar and Solar + Storage and how that could prepare Oregon for emergencies.

Keith added that he would like to see if there is an available pilot out there. The federal weatherization program allows up to \$3,000 for those with low income if they have had weatherization done on their house. A good pilot that leverages federal funds with state funds would put more solar on rooftops.

Jennifer Joly said that the legislative concept discussion on the community energy grant program fits nicely with this goal. Janine added that we could have defined uses for the potential stimulus funding ready to go, should there be money available.

Janine asked for feedback or ideas for the May 15 report.

### **Radioactive Waste Disposal at Arlington Landfill Update**

Ken Niles, ODOE's Assistant Director for Nuclear Safety, provided a brief overview of the recent situation involving radioactive waste at the Arlington landfill. Last year, ODOE received a call from someone in North Dakota, who claimed that TENORM waste was being dumped in Oregon and wondered where it was going. ODOE staff made a couple of phone calls and identified that fracking waste was being dumped at the Arlington location for about three years. ODOE's priority was to make sure the problem did not get any worse. The landfill operation immediately shut off that waste stream. The second priority was to make sure there was no immediate risk to the public and environment. Staff gathered information from the company that received the waste, and from North Dakota who had tracked the shipments. ODOE consulted the Oregon Health Radiation Protective Services and we determined there was no immediate risk. This gave us time to dig into our statutes and rules. We realized there were some holes within our regulations, so as a result there will be a statutory change and a rule change, we will be looking for. They had not been designed with the intent of enforcing restrictions on radioactive waste disposal.

Going back to the 1970s, the legislature created a law banning radioactive material being dumped within the state of Oregon. Because everything has some level of radioactivity, it became our responsibility through our administrative rules to define what is and what is not radioactive material. This makes the state's rules on disposal complex. The operator of the

waste disposal facility felt that there was room within the regulations for the type of waste they were receiving. This interpretation proved to be wrong, after many conversations with the landfill and DEQ, we issued a notice of violation on February 13, 2020. This got a lot of public attention, including some concern that the Notice of Violation that we issued did not have monetary penalties. This is due to the in ODOE's administrative rules. We did not believe we had any room to levy penalties due to the way the rules and statutes are written.

Staff are having discussions with the operator of the landfill, while continuing to investigate. We have requested additional documentation. If further corroborating evidence that the violation was willful is found, the Notice of Violation could be elevated with fines added. The operator of the landfill is working with experts in the field to do a detailed risk analysis and corrective action plan. The plan looks at two alternatives; leave waste in place or remove it. This plan will list the actions that the company will take to make sure this never happens again. They have instituted short-term measures while the corrective action plan is evolving. September 1 is the plan deadline to deliver those documents to ODOE. Preliminary documents are due April 30 (they can now be found on [ODOE's website](#)). The Gilliam County Court hosted public meetings in Condon and in Arlington, where facility workers turned out to find out what we knew. There are on-going discussions as the company is developing their risk assessment and corrective action plan as we move forward.

#### **Legislative Concept Development for 2021 - ODOE Staff**

The State continues to move forward preparing for the 2021 Session. Agencies are required to submit their legislative concepts to DAS and the Governor's office for consideration by April 17. We are working together internally on ideas, which are in various stages of development. Submitting these to DAS is the first step in a long process. After this they are reviewed by the Governor's office and the Chief Financial Office before going to the legislative counsel for drafting. There will be many opportunities for you to give us feedback before the bills are filed in December.

**LC 1** - Radioactive waste disposal. This will likely be introduced as a committee bill in the Senate Environment and Natural Resources committee. It is similar in language to an amendment by Senator Dembrow in the 2020 Short Session. Ken Niles described how Legislative Counsel told ODOE that the statutes related to radioactive waste disposal are unique in the State, in that they identify a specific date that one version of the administrative rules was approved. This language limits ODOE's ability to amend the rules. Statutory changes in the legislature are needed in order to clarify and strengthen our ability to regulate radioactive materials in the state. Another related piece is our ability to enforce violations not tied to the statute. We are planning to address this with a rulemaking later this year.

There was a two-page handout which speaks to this in the meeting materials. Janine added that feedback from the entity that disposed of the waste indicated that our rules were unclear.

**LC 2** - Energy Facility Siting Council and the number of members that make up a Quorum. Todd Cornett addressed this, saying that the basic concept will change the quorum from five

members to four. EFSC is the final decision-maker on energy facility applications, amendments and rulemakings. EFSC has seven council members, but they have a five-member quorum requirement. Other similar councils only require four to have a quorum. ESFC meets up to ten times a year with several decision points at each meeting. Business risks being delayed if a quorum can't be reached. If EFSC has vacancies, this further complicates the issue. Currently EFSC has six members, prior to that they had only five. This change will give additional flexibility to continue to hold meetings and make decisions when there are vacancies and aligns practice with other similar state boards and commissions.

Jennifer Joly asked if Todd if he expected any opposition, or are all stakeholders in alignment with this approach? Todd replied that the agency has not yet done outreach with stakeholders and that this would be a next step.

**LC 3** – Appliance efficiency standards. This bill will help us to implement the directive in the Executive Order to update the appliance efficiency standards in the state. We need to first do a rulemaking then introduce the legislation.

Blake Shelide: Oregon has periodically enacted legislation to do with appliance standards, starting in 2005 and during subsequent sessions after that. As a follow up to Executive Order 17-20, we issued a report that identified opportunities for updating appliance standards in Oregon that could save energy, save money for consumers and reduce GHG emissions in the State. Executive Order 20-04 directed ODOE to conduct a rulemaking to update or establish those standards by September of 2020. This is a two-step process, first the agency conducts a rulemaking to establish the standards, then during the next legislative session, a bill will be introduced to conform statute with the standards that were adopted by the agency.

The standards identified in the Executive Order 20-04:

- High CRI fluorescent lamps
- Computers and computer monitors
- Faucets
- Showerheads
- Commercial fryers
- Commercial Dishwashers
- Commercial steam cookers
- Residential ventilating fans
- Electric storage water heaters
- Portable Electric Spas

These items do not have a federal standard but do have a standard in a neighboring state. ODOE will harmonize the standards and create a uniform market on the West Coast. The rulemaking and legislative concept development will happen simultaneously and are closely related. Staff will conduct stakeholder outreach in the next couple of months, leading up to the rulemaking this summer prior to the Executive Order deadline. The legislative concept follows

standard state and DAS procedures.

### **EAWG Member Questions**

Jennifer asked whether this bill was brought forth in the recent past. Blake replied that in 2018 ODOE proposed legislation to streamline the process but it didn't move forward. The concept this year will not change the process.

Jana commented that this two-step process means we are slower in the energy efficiency uptake and considering new GHG reduction goals, this is problematic. Efficiency means we save money and it is good for air and climate. She hopes this continues to be part of the conversation in coming years.

Fred offered that Wendy Gerlitz, NW Energy's policy director is involved in the work on this concept. He spoke about storage water heaters, which can help with the electric grid. The alignment between appliance standards and demand response will be important going forward. He encouraged everyone to support this concept.

There was a discussion about the cost difference associated with more efficient appliances.

There was a question about the date of first rulemaking. Blake replied the rulemaking will be complete by September 1 and the rules become affective a year after the rulemaking. He also clarified that the Executive Order lists 10 items to do rulemaking on, but it is not exclusive. The group was asked for feedback: whether there is anything they feel ODOE is missing in regard to bringing Oregon into alignment with West Coast standards?

Fred brought up that the Trump Administration is trying to roll back appliance efficiency standards process at the National level. Has ODOE engaged on this issue? Janine responded that the Feds cannot technically roll back standards that are in place, they can only slow down the process in future, apart from what they are doing with lightbulbs. The Oregon Attorney General has been involved in efforts along with other states, using lawsuits and amicus briefs against the U.S. Department of Energy on what they are doing with appliance standards.

**LC 4** – A Community Energy Resilience program, which would model ODOE's past Renewable Energy Development Grant program. No revenue source yet, but the aim is to have a program available should a revenue source become available. Adam explained that the concept is to take the RED Grant model and revitalize it with an added layer of community energy resilience as an eligibility requirement. We would narrowly define what this looks like in terms of existing designations, weather and hazard mitigation plans, or elsewhere in state government that identifies critical facilities. This would look at whether we could target state support for solar and storage specifically to facilities that would provide an outsize community benefit following a major event like the Cascadia earthquake, power outages due to wildfire, or something of that nature. The EWEB microgrid project which did a solar plus storage and generator at an elementary school, a groundwater well pumping project, PGE's work with Fire Station No. 1 in Portland, and the Beaverton Public Safety Center are examples. Absent a revenue source being

identified it may be challenging in the current climate unless there is a federal revenue source in the future.

## **Review/Feedback**

Angela– we love it.

Janine called for a time check, asked members if they wanted to stay over the allotted time to hear Ruchi discuss the input and scoping document on the BER. She indicated that there is also a survey for the public.

## **Biennial Energy Report (BER) – Ruchi Sadhir, Associate Director**

Ruchi discussed the [Input and Scoping Phase guidance document](#) which is found on the ODOE website.

Fred Huette asked if ODOE was open to one-on-one organizational discussions to talk about aspects of the information that they find useful. Ruchi indicated that this was happening with several groups and we welcome ideas.

Janine added that feedback from the EAWG in the past was that with topics being so numerous and broad, it is a challenge to put them together in a way and with a narrative that makes sense. Because ODOE wants this version to be content and inquiry based, there is no outline yet, but there are areas of focus: Energy by the numbers (2018's Chapter 1) to inform those less well versed in energy so they may make informed energy decisions in their lives; technology reviews as they relate to the status of what is happening in the state; a history section for energy in Oregon; key topics with more in-depth questions we would like to examine. This allows for someone to look at the portion of the report that is important to them, while making for a good read.

Jennifer Joly requested that ODOE highlight the new information in the BER versus the initial BER, to show the changes from the previous one. Ruchi added that the approach we are taking is that this BER will build from the 2018 BER, but we are moving on with this one, and the updated section will be in the energy by numbers section which presents facts and data. You will be able to see what has happened over the last two years. The new version will have shorter pieces that are more focused and can be torn out.

Kurt Miller asked how ODOE would manage the energy demand forecasts in the 2020 report given the incredibly dynamic period that we are in? Janine said that we have been discussing this at the staff level this week, and we hope to know more by the time the BER goes to print. Ruchi said this will be addressed, and we have staff who closely follow the work of the policy council so we will make sure that this is consistent.

The meeting concluded with a final call for questions or comments. Fred offered his thanks for doing this remotely and hopes to be in the same room as all of you sometime soon. Janine thanked ODOE's excellent IT team.