



State of Oregon Department of Environmental Quality

# Minutes: 416<sup>th</sup> Oregon Environmental Quality Commission meeting

**Sept. 30 and Oct. 1, 2021: Teleconference (Zoom and telephone)**

**Thursday, September 30: 12:30 to 4 p.m., evening hearing 4 to 7 p.m.**

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

## **Welcome and meeting open**

Chair George convened the meeting at 12:35 p.m.

## **A. Action: Meeting minutes**

The commissioners reviewed the draft minutes from the July 22-23, 2021, regular EQC meeting.

**Action:** Approve the minutes of the July 22-23, 2021, regular EQC meeting as presented.

**Move:** Vice-chair Baraso

**Second:** Commissioner Kile

*The commission unanimously approved the action as presented.*

## **B. Action: Water Quality Permit fees**

Justin Green, Water Quality Division Administrator, introduced the item and provided background on the Water Quality Permit Program. Geoff Rabinowitz, Water Quality Permit and Operations Program Manager, described details of the permitting program and outlined the rule proposals for commission consideration.

**Action:** Adopt the proposed rule amendments and accompanying fee tables in Attachment A as part of Chapter 340 of the Oregon Administrative Rules Divisions 45 and 71.

**Motion:** Vice-chair Baraso

**Second:** Commissioner Kile

*The commission unanimously approved the action as presented.*

## **C. Informational: Water Quality Division Triennial Review report and workplan**

Jennifer Wigal, Water Quality Division Deputy Administrator, provided an overview of the informational presentation. Connie Dou, Water Quality Standards Manager, described the elements of the Oregon Water Quality Standards Triennial Review and summarized how standards are developed and used for Oregon's waters. Debra Sturdevant, Water Quality Standards lead,

discussed the timeline of the Triennial Review process. Sturdevant described the prioritized projects for the 2021-24 workplan, providing a brief overview of each project and its estimated schedule. She also summarized public comments DEQ received regarding the workplan.

Commissioners asked clarifying and informational questions throughout the presentation, including some specific questions on some of the projects and plan's details.

### **Break**

The commission recessed from approximately 1:30 to 1:40 p.m.

### **D. Informational: Water Quality Integrated Report 2022 updates**

Jennifer Wigal, Water Quality Division Deputy Administrator, introduced the item and explained that the Integrated Report builds on the framework of water quality standards discussed in the previous item. She noted that the informational item will be followed by an opportunity for public comment specific to the proposed methodologies of the 2022 Integrated Report, in fulfillment of specific statutory authorities for this topic.

Connie Dou, Water Quality Standards Manager, provided an overview of the federal Clean Water Act framework and described the relationship between DEQ's Water Quality Standards Program, the Integrated Report and the federal requirements. Becky Anthony, Water Quality Assessment Program lead, described the major steps in the Water Quality Integrated Report development process, generally. She also described the priority revisions and updates to methodology for the 2022 Integrated Report.

Commissioners asked clarifying and informational questions throughout the presentation and discussed the implementation of the projected methodology revisions. After the staff presentation the commission opened an opportunity for public comment on the 2022 Integrated Report methodology; however, no people signed up to present comment.

### **E. Informational: DEQ/Forestry Water Quality Memorandum of Understanding updates**

Jennifer Wigal, Water Quality Division Deputy Administrator, introduced the item and described why DEQ and the Department of Forestry are developing an updated memorandum of understanding for water quality and protections. Diane Lloyd, Oregon Department of Justice, discussed key elements of legal advice provided to DEQ and ODF in spring 2021 regarding the update. Kyle Abraham, ODF, described some elements of the draft MOU, which had been released for public comment and review earlier this year.

Commissioners asked clarifying and informational questions throughout the presentation. Director Whitman noted that DEQ will extend the public comment period for the draft MOU by one week. The comment period had previously been scheduled to close Oct. 1, 2021.

## **F. Diversity, equity and inclusion work at DEQ**

Director Whitman discussed Governor Brown's directives to state government agencies to center equity, inclusion and diversity in their programs and operations, internally and externally. He described the actions taken to-date by DEQ to implement these directives, including the establishment of an internal DEI Council and the hiring process in-progress for a DEI Coordinator.

Director Whitman introduced the members of the DEI Council, who were selected through an internal application process open to any DEQ employee. Chair George noted her appreciation for the members of the council, and all staff engaged in various ways with DEI, including several affinity groups meeting regularly and organized around shared identities. Vice-chair Baraso and Commissioner Kile echoed her comments, and noted the importance of institutional support to integrate this work into DEQ's operations. Director Whitman noted that the agency is working to retain a consultant to facilitate discussions and assist with DEI-specific trainings.

## **G. Informational: Climate Protection Program updates**

Director Whitman provided an opening clarification on requests to extend the comment period for the proposed Climate Protection Program rules, currently out for comment. He stated that DEQ would extend the comment period by 21 days, and comments would be accepted until 4 p.m. on October 25.

Colin McConnaha, Office of Greenhouse Gas Programs Manager, and Nicole Singh, Climate Policy Senior Advisor, provided a summary of changes made to the proposed program rules since the EQC informational presentation in July. Commissioners asked some clarifying questions throughout the presentation.

## **Recess**

Chair George recessed the regular meeting at 4:01 p.m. until 9:30 a.m. on Friday, Oct. 1, 2021. Chair George noted that the commission would hold a hearing on the proposed draft rules for the Climate Protection Program after a short break for commissioners.

## **Hearing: Climate Protection Program**

The commission held a hearing on the proposed draft rules for the Climate Protection Program from approximately 4:20 to 7:30 p.m.

At the hearing, DEQ staff provided an informational overview on the proposed draft rules. Following the staff presentation, the commission opened the testimony and comment portion of the hearing. A total of 67 people presented comment to the commission. Full copies of all comments are available on the recording for the meeting, and a summary will be provided by the program with the final proposed rules in December.

## **Friday, October 1: 9:30 a.m. to 1 p.m., followed by an executive session**

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

### **Welcome and meeting open**

Chair George reconvened the meeting at 9:33 a.m.

### **H. Public forum**

At approximately 9:35 a.m., Chair George opened the meeting's public forum, a time during which any person may present comments to the commission on general environmental and public health matters relevant to EQC and DEQ work.

Seventeen people presented comment. Names, affiliations if provided, and general notes on the comments are provided below.

1. Mary Peveto, Neighbors for Clean Air, commented in support of the Clean Trucks rules
2. David De La Torre, Oregon Physicians for Social Responsibility, commented in support of the Clean Trucks rules
3. Victoria Paykar, Climate Solutions/Clean Air-Healthy Communities Coalition, commented in support of the Clean Trucks rules
4. Noah B. Howe, Ceres, commented in support of the Clean Trucks rules
5. Diann Benson commented on general air pollution concerns and geoengineering issues
6. Nora Apter, Oregon Environmental Council, commented in support of the Clean Trucks rules
7. Mark Quaid, Portland resident, commented about the financial disincentive for residents to support green energy in Oregon
8. Carra Sahler, Green Energy Institute, commented in support of the Clean Trucks rules
9. Andy Wunder, E2, commented in support of the Clean Trucks rules and specific business industry support for the rules
10. Patricio Portillo, NRDC, commented in support of the Clean Trucks rules
11. Akash Singh, Union of Concerned Scientists, commented in support of the Clean Trucks rules
12. Hieu Le, Sierra Club, commented in support of the Clean Trucks rules
13. Eme Okotoyo-Okoyem, NAACP Eugene-Springfield, commented in support of the Clean Trucks rules
14. Julia DeGraw, Oregon League of Conservation Voters, commented in support of the Clean Trucks rules
15. Catherine Thomasson, Environmental Caucus of Democratic Party of Oregon, commented in support of the Clean Trucks rules and requested that transport and transit vehicles be included
16. Ranfis Gianetto Villatoro, BlueGreen Alliance, commented in support of the Clean Trucks rules
17. Kathy Moyd commented in support of the Clean Trucks rules

Chair George closed the public forum at approximately 10:20 a.m.

## **Break**

The commission recessed from approximately 10:20 to 10:40 a.m.

## **I. Action: Landfill methane rules**

Ali Mirzakhali, Air Quality Division Administrator, introduced the item. Michael Orman, Air Quality Planning Section Manager, provided an overview of the proposal as part of DEQ's obligations under Executive Order 20-04. Heather Kuoppomaki, Air Quality Engineer, described the proposed rules, engagement and public comment processes and specific details of the proposed rules.

Commissioners asked clarifying and informational questions throughout the presentation.

**Action:** Adopt the proposed new rules for Division 239, adopt the proposed revised rules in Division 12; and adopt the proposed revised Table 1 of Division 216, all seen in Attachment A of the report for this item, as part of Chapter 340 of the Oregon Administrative Rules.

**Motion:** Vice-chair Baraso

**Second:** Commissioner Kile

*The commission unanimously approved the action as presented.*

## **J. Informational: Environmental Justice work at DEQ**

Director Whitman introduced the item and provided an overview of recent environmental justice-related policy and operations actions at the federal and state level. Ximena Cruz Cuevas, Northwest Region Tanks Program Coordinator and co-lead of the internal EJ Workgroup, discussed the development, goals and activities of the workgroup. Director Whitman described some of the resources under development at the agency and at the state level to help support broader engagement on environmental justice issues around Oregon and incorporation of EJ principles into all of DEQ's operations and programs. He noted the connection between environmental justice and the agency's broader work for diversity, equity and inclusion. Commissioners asked clarifying and informational questions throughout the presentation and provided their feedback on, and strong support for, the workgroup's draft charter and workplan.

## **K. Informational: Director's report**

Director Whitman provided updates on issues of interest to the commission and agency. In addition to the written report for this item, Director Whitman provided verbal updates about:

- The agency response to the ongoing COVID-19 pandemic
- Changes to Leadership Team membership and structures
- Permitting updates at the CARTY/Boardman power plant

Deputy Director Feldon provided an update on a permit modification request from Chemical Waste Management for its Arlington landfill.

## **L. Informational: Commissioner reports**

Commissioners provided updates on their activities of interest to EQC and DEQ.

- Commissioner Kile provided updates regarding her role as liaison to OWEB, including that Lisa Hanson is the new executive director of OWEB and that OWEB staff continue to work with DEQ on nonpoint source control plans and water quality protections.
- Vice-chair Baraso noted that the City of Portland has released a request for proposals for community climate projects, and intends to award \$60 million for projects
- Chair George noted a letter co-signed by the nine federally recognized Tribes in Oregon and sent to Governor Brown regarding formal engagement in the 100 Year Water Plan process. She also noted a personal trip to the Deschutes River and the continued importance of access to recreational opportunities for all people of Oregon.

Director Whitman noted that a recent memo regarding changes to the compensation structure for commission members was included, and he would follow up individually with commissioners. Those changes are the result of legislation meant to increase participation on state boards and commissions and recognize that serving on a board is time- and finance-prohibitive for many people.

## **Adjourn**

Chair George adjourned the regular meeting at 1:01 p.m.

## **Executive session**

Following the regular meeting, the commission held an Executive Session, pursuant to ORS 192.660(2)(f) and (h), from 1:15 to 1:54 p.m.

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State of Oregon Department of Environmental Quality

# Minutes: Oregon Environmental Quality Commission special meeting

**Oct. 18, 2021: Teleconference (Zoom and telephone)**

**Monday, October 18: 12 to 1 p.m.**

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

## **Welcome and meeting open**

Chair George convened the meeting at 12:04 p.m.

## **A. Action: Petition for declaratory ruling**

DEQ presented a recommendation for commission response to a petition, received Aug. 19, 2021, asking the commission to issue a declaratory ruling related to the application of the Dissolved Oxygen Water Quality Standard in the Lower Deschutes River.

Director Whitman introduced the item and noted his thanks to the staff who participated in the review, analysis and proposal development. Jennifer Wigal, Water Quality Division Deputy Administrator, described the petition, summarized the petitioner's request and outlined DEQ's recommendation for commission action. Commissioners asked clarifying and informational questions throughout the presentation.

Following the staff presentation, the commission invited a representative of the petitioner, Deschutes River Alliance, to present comments. Ben Kirsch provided summary comments in support of the petition's request and provided additional contextual information for the commission's consideration.

**Action:** Deny the petition and allow DEQ to propose updated use designations following a rulemaking process.

**Move:** Commissioner Kile

**Second:** Vice-chair Baraso

*The commission unanimously approved the action as presented.*

Following the action to deny the petition, the commissioners discussed a best way to provide follow-up for the discussion and requested more information about the dissolved oxygen standard, generally, and its application in the Lower Deschutes River.

**Action:** Direct DEQ to bring an informational item to EQC by March 2022, inviting all relevant parties to participate in the item, including but not limited to the Warm Springs Tribal government, Deschutes River Alliance and PGE.

**Move:** Vice-chair Baraso

**Second:** Commissioner Kile

*The commission unanimously approved the action as presented.*

## **Adjourn**

Chair George adjourned the regular meeting at 1:11 p.m.

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