



State of Oregon Department of Environmental Quality

Minutes: Oregon Environmental Quality Commission meeting

410th regular meeting

Sept. 17-18, 2020: Teleconference

Thursday, September 17: 1 to 4:45 p.m.

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

Welcome and meeting open

Chair George convened the meeting at 1:03 p.m. She spoke to the destruction and harm of the wildfires in many communities across the state and offered the commission's appreciation for the coordinated wildfire response teams, and empathy to all people affected.

A. Action: Draft meeting minutes

Commissioners reviewed the proposed draft minutes from the July 16-17, 2020, EQC meeting.

Action: Approve the July 16-17, 2020, EQC meeting minutes as presented.

Move: Commissioner Mosby

Second: Commissioner Kile

The commission unanimously approved the July 16-17, 2020, EQC meeting minutes as presented.

B. Informational: State of the Environment annual update

DEQ presented a summary of the measures and metrics DEQ uses to track environmental health and progress in the state, and discussed ways the agency is addressing improvements and setbacks to the overall health of Oregon's air, land and water.

Director Whitman introduced the item and provided an overview of the measures and metrics DEQ uses to understand the state of Oregon's environment. Lori Pillsbury, Laboratory and Environmental Assessment Division administrator, described the measures overseen by lab staff, and the ways this data informs other programmatic decisions. Ali Mirzakhilili, Air Quality Division administrator, Jennifer Wigal, Water Quality Division deputy administrator, and Abby Boudouris, Land Quality senior policy analyst, presented key measures tracked by the air, water and land divisions, respectively.

Throughout the item, commissioners asked clarifying and informational questions about the data sources, measures and expected outcomes of the metrics. Director Whitman noted that the agency is

beginning a strategic planning process, part of which may include review or updates of the measures used by DEQ to evaluate its effectiveness protecting human health and the environment in Oregon.

C. Action: Drug take-back program rules – Rulemaking

DEQ presented proposed rules for the drug take-back program, as authorized by the 2019 Oregon Legislature. This program is a statewide product stewardship program for safely disposing of unused medications. Loretta Pickerell, Materials Management Program manager, introduced the item and provided background information on the proposed rules. Michael Lee, Materials Management Program policy analyst, described the proposed rules, program design and implementation plan.

Commissioners discussed the proposal and asked clarifying questions regarding costs, coordination with the Board of Pharmacy and ways to ensure rural parts of the state have equitable service. Chair George noted that Tribal governments may be willing and able to work with DEQ in parts of the state where service is limited, due to their presence in these more rural areas of the state, and that intergovernmental coordination would benefit all people in Oregon.

Action: Adopt the proposed rules and rule amendments seen in pages 39 through 42 the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules Division 98.

Move: Commissioner Kile

Second: Commissioner Mosby

The commission unanimously approved the action.

Following the commission's action, Deputy Director Feldon recognized Loretta Pickerell for her years of service at DEQ and with the State of Oregon. Pickerell retires in late September.

D. Informational: Air Quality Division core work update

DEQ presented an update on the core work and permitting program, including a backlog of some permits, for the Air Quality Division. Ali Mirzakhilili, Air Quality Division administrator, provided an overview of the presentation and background information on DEQ's Air Quality Permitting Program. Jaclyn Palermo, Air Quality Division Operations manager, described the findings of, and DEQ's actions in response to, two audits for the program. Palermo summarized the program improvements taken since the findings, and noted the need for additional staff and resources in order to maintain the improvements for permitting. Mirzakhilili summarized the issue of the permits backlog, and steps necessary to reduce and eliminate the backlog.

E. Action: Air Contaminant Discharge Permit fee rules – Rulemaking

DEQ presented proposed rules to increase ACDP fees, based on commission feedback at the May 7, 2020, EQC meeting. Ali Mirzakhilili, Air Quality Division administrator, described the ACDP program, including the types of sources regulated by DEQ in the program, and the need for additional resources to meet the objectives of the permit backlog reduction and other program targets.

Matt Davis, Air Quality Division senior policy analyst, described the development process for the proposed rule revisions and fee increase, including engagement and outreach to regulated entities and others interested in the program. Davis presented the two options included for commission consideration, noting that both reflected the commission's direction to reduce fiscal impact on small businesses that pay these fees. Commissioners asked clarifying and informational questions about the proposals, and offered their feedback on the program's implementation and ongoing work.

Action: Adopt the proposed rules as seen in Attachment A of the staff report for this item 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 Kile

Second: Vice-chair Baraso

The commission approved the action, with one abstention (Commissioner Mosby)

F. Informational: Commissioner reports

Commissioners provided verbal updates of their recent activities as liaisons to other boards or commissions or other items of interest to the commission.

- Commissioner Kile noted that she attended the OWEB meeting last week, and one of the agenda topics was about natural climate solutions and the importance of forested and working lands across the state, which can provide carbon sequestration or other mitigation for climate challenges.
- Commissioner Addington reflected on the fires across the state, and how many communities in southern Oregon lost a lot of affordable housing. He urged DEQ, and other state agencies, to engage early and provide coordinated and protective responses to these challenges.
 - Director Whitman noted that he is part of a disaster cabinet convened by Governor Brown, and the safe and protective rebuilding of affordable housing is a priority for the group of state agency directors and others on this cabinet.
- Chair George explained that she recently attended an Oregon Tries meeting where the question was raised if the expanded state focus on environmental justice is being inclusive of rural, and Tribal, communities, and noted the need to retain focus outside of the urban and population centers when considering environmental justice concerns.

Chair George recessed the meeting at 5:13 p.m. until 9 a.m. on Friday, Sept, 18, 2020.

Friday, September 18: 9 a.m. to 12:20 p.m.; executive session 12:30 to 1:15 p.m.

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

Welcome and meeting open

Chair George reconvened the meeting at 9:07 a.m.

G. Informational: Director's report

Director Whitman presented verbal updates, in addition to the written report for this item, regarding agency activities and other issues of interest to the commission. In addition the written materials, Director Whitman provided verbal updates on wildfire response efforts across the state, permitting actions at the Columbia Pacific Biorefinery site and the agency's strategic planning process. Commissioners asked clarifying questions throughout the

- **Action:** The commission took action on updated rulemaking delegation paperwork, as presented during this item. The updated paperwork action was moved by Commissioner Kile, seconded by Commissioner Addington and approved unanimously.

H. Informational: Greenhouse Gas Reduction Program Rules Advisory Committee

DEQ presented on the formation of the Rules Advisory Committee, including potential membership and commissioner engagement opportunities, for the Greenhouse Gas Reduction Program and associated rulemakings. Director Whitman described the directives for greenhouse gas emissions reduction, as provided in Governor Brown's Executive Order 20-04, and the specific rulemaking development for cap-and-reduce efforts.

Colin McConnaha, Office of Greenhouse Gas Programs manager, provided an overview of the development schedule, and noted that Executive Order requires DEQ to present proposed cap-and-reduce rule options for commission consideration by late 2021. McConnaha described a series of technical workshops DEQ held this fall, of all which were well attended and provided opportunities for engagement and feedback to the program prior to any rules development process.

Director Whitman and McConnaha described the organizing principles for the committee, proposed types of representation for membership and the process by which DEQ will solicit interest and evaluate potential membership. They noted that the commission will be asked to approve the final committee membership in November 2020. The commissioners discussed the information, including the proposed membership outline. Commissioners Addington and Kile noted a need for representation of working lands on the committee, as they are not directly regulated under the cap-and-reduce program but their input may be beneficial for better program design.

I. Informational: Agency Toxics Reduction Strategy update

DEQ presented an update on the Agency Toxics Reduction Strategy, the Focus List and next steps in 2020-21. Deputy Director Feldon provided an overview of the strategy, its development and past commission engagement. Dan Brown, Team Toxics project manager, discussed the data used to

develop the DEQ Toxics Reduction Strategy, including significant revisions since the initial 2012 EQC-approved strategy. Kevin Masterson, Toxics Reduction specialist, outlined recent changes to the Focus List of the strategy and other cross-program actions and updated for toxics reduction.

J. Informational: Willamette Watershed Toxics Reduction Partnership update

DEQ and project partners presented an update on the activities, success to-date and proposed next steps for the Partnership. Kevin Masterson, DEQ Toxics Reduction specialist, introduced Mary Lou Socia, Columbia River Basin Coordinator for EPA. Socia described the work of the Willamette Watershed Toxics Reduction Partnership, a joint commitment by EPA and DEQ to work collaboratively with interested parties to understand and reduce upstream toxics in the Willamette River that could negatively influence the success of the Portland Harbor Superfund cleanup. She walked the commissioners through online resources created for the project, including several River Stories created by youth of color and Tribal nations to describe their engagement with the river.

K. Public forum

At 11:35, Chair George opened public forum. Any person could present comment on environmental topics, and people were able to connect through the online teleconference platform or by toll-free telephone line. Eight people presented comment during this item.

1. Clair Klock, Clackamas Conservation District, provided support for the commission's approval of the drug take-back program, and echoed Commissioner Kile's emphasis of the importance of representation for working lands as part of the greenhouse gas rule development process.
2. Dale Feik, Hillsboro Air and Water, provided comment supporting the direction of the greenhouse gas rule development process, and its advisory committee. Feik provided additional comments on items discussed during the Director's report, Item G.
3. Dr. Juniper Simonis provided comment regarding pollution from the tear gas used against demonstrators in and near downtown Portland. They noted that chromium and other heavy metals were listed in the monitoring reports from the City of Portland, which is a significant public health concern.
4. Jonah Sandford, NEDC, asked the commission what regulatory actions has DEQ taken to specifically reduce diesel particulate matter over the past year.
5. Don Sampson, Chief of the Walla Walla Tribe, addressed the composition of the Greenhouse Gas Program Rule Advisory Committee, and stated that representatives must not disproportionately favor business and industrial interests.
6. Zach Baker, Renew Oregon, echoed the comments of Chief Sampson regarding the composition of the Greenhouse Gas Program Rule Advisory Committee.
7. Scott Forester asked clarifying questions regarding the Director's report item concerning radioactive waste disposed at Arlington landfill.
8. Nora Apter, Oregon Environmental Council, commented on the composition of the Greenhouse Gas Program Rule Advisory Committee.

Chair George adjourned the meeting at 12:34 p.m. Following adjournment, the commission met with representatives of the Oregon Department of Justice and senior DEQ staff for an executive session.

This session was held via teleconference, conducted pursuant to ORS 192.660(2)(f) and (h), and lasted from approximately 12:50 to 2:15 p.m.

Remaining 2020 meeting dates (via teleconference)
November 19-20



State of Oregon Department of Environmental Quality

Minutes: Oregon Environmental Quality Commission special meeting

Oct. 9, 2020: Teleconference

Friday, October 9: 9-10 a.m.

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

Welcome and meeting open

Chair George convened the meeting at 9:03 a.m. People attended the special meeting by online teleconference, through the Zoom platform, or by toll-free telephone line.

Director Whitman explained that DEQ is proposing two actions, one order and one temporary rulemaking, related to the cleanup, management and disposal of debris from wildfires across the state. The proposed order would allow a temporary variance to certain requirements for the management and disposal of asbestos-containing materials. The proposed temporary rules would allow temporary modifications to the regulations for the storage and disposal of solid waste at certain disposal facilities. Both proposed actions would protect human health and the environment while allowing people to manage debris efficiently from the catastrophic wildfires across much of the state in August and September.

In addition to Director Whitman's presentation, Becka Puskas, Office of Compliance and Enforcement, described the proposed action related to the management of asbestos-containing debris. Commissioners asked clarifying and informational questions throughout the presentation, and emphasized the importance of specific local outreach, communication and engagement for people who are recovering from these catastrophic wildfires and may not have access to traditional outreach mechanisms, such as the DEQ website and other online resources. The commission took separate actions for the proposed order, related to asbestos, and the proposed temporary rules, related to solid waste management at disposal facilities.

Action: Approve the proposed order, included as Attachment A of this report.

Move: Vice-chair Baraso

Second: Commissioner Addington

The commission unanimously approved the action.

Action: Determine that a failure to act promptly would result in serious prejudice to the public interest or the interests of the parties concerned as provided under the Justification section of Attachment B, and adopt the 2020 Wildfire Response, Solid Waste Letter Authorization

temporary rules as seen on page five of Attachment B as part of Chapter 340 of the Oregon Administrative Rules to be effective on filing with the Oregon Secretary of State

Move: Commissioner Addington

Second: Commissioner Mosby

The commission unanimously approved the action

Chair George adjourned the special meeting at 9:59 a.m.

Remaining 2020 meeting dates (via teleconference)

November 19-20