



State of Oregon Department of Environmental Quality

# Minutes: Oregon Environmental Quality Commission meeting

## 409<sup>th</sup> regular meeting

### July 16-17, 2020: Teleconference

#### Thursday, July 16, 2020: 1 to 5 p.m.

- Commissioners present: Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Wade Mosby

*Chair George convened the meeting at 1:07 p.m.*

Prior to agenda item A, Chair George reviewed the day's agenda and showed a short video produced by DEQ on the agency's mission, vision and values.

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

Commissioners reviewed the draft meeting minutes from recent special and regular EQC meetings.

**Action:** Approve the minutes for the Jan. 24-25, 2020, regular meeting; March 18, 2020, special meeting; April 24, 2020, special meeting and May 7, 2020, regular meeting, all as presented

**Move:** Commissioner Kile

**Second:** Commissioner Mosby

***The commission unanimously approved the action***

#### **B. Informational: Update on DEQ's 2019-21 Budget and Operations**

Leah Feldon, Deputy Director, and Brian Boling, Central Services Division administrator, co-presented this update. They discussed the status of the agency's operations, including adjustments to fieldwork and inspections protocol, in respect to the COVID-19 pandemic and Executive Orders from Governor Brown. They also discussed budget adjustments, as required by reductions in revenue at the state level, for the current agency spending and the remainder of the 2019-21 biennium. Commissioners asked clarifying and informational questions throughout the presentation.

#### **C. Informational: Update on Water Quality Permitting Programs**

Justin Green, Water Quality Division administrator, introduced this item and provided a short overview of the Water Quality Permitting Programs. Geoff Rabinowitz, Water Quality Permitting and Program Development manager, described the background, current state and future workplan for the permitting program and its efforts to eliminate a backlog of permit renewals.

Rabinowitz and Green described the findings of two external audits and program reviews, and actions taken by DEQ since 2016. They presented summary information about additional actions taken by DEQ in response to a 2018 settlement regarding the pace of the backlog reduction and other elements of the Water Quality Permitting Program. The commissioners discussed the presentation, asked clarifying and informational questions and provided feedback to staff on agency progress to-date.

**D. Action: Rulemaking - Water Quality Program Fee Increase**

Justin Green, Water Quality Division administrator, introduced this item and provided an overview of the proposed fee increase and its relationship to the Water Quality Permitting Program’s efforts to eliminate the backlog of permit renewals and implement other program improvements. Rian Hooff, Water Quality Senior Policy and Legislative analyst, described the two options DEQ developed for the fee increase proposal, noting the agency’s recommendation is for option two – a phased-in increase over two years. Green and Hooff described the legislative development process, advisory committee and engagement meetings and other steps DEQ took while developing the fee proposals. The commissioners asked clarifying and informational questions throughout the presentation, and Director Whitman provided some responses in addition to the replies from Green and Hooff.

**Action:** Adopt the proposed rules as seen in Attachment B and the accompanying fee tables in Attachment C and Attachment D of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules Divisions 45 and 71.

**Move:** Commissioner Mosby

**Second:** Commissioner Kile

***The commission unanimously approved the action***

**E. Informational: Greenhouse gas emissions reduction programs**

Director Whitman introduced this item, and described Governor Brown’s Executive Order 20-04 for greenhouse gas emissions reductions. Colin McConnaha, Office of Greenhouse Gas Programs manager, outlined the new and existing DEQ programs that are now part of the new office, and described those programs and projects. Commissioners discussed the programs, Executive Order and ways to be involved with rulemakings and other agency actions over the next several years.

**F. Informational: Diesel engine emissions in Oregon**

Matt Davis, Air Quality Division Senior Policy and Legislative analyst, introduced this item and explained that it is a follow-up to prior commission questions regarding diesel, and the first of several informational items and updates planned for the commission regarding technical and policy implications of new studies, potential rulemakings and other actions for diesel issues in Oregon. Eric Feeley, Diesel Program planner, described the components of diesel particulate matter, and the related health and environmental effects of this pollutant.

Feeley and Davis outlined the emissions in Oregon from diesel engine use, and presented summary data from a recent agency study and inventory of off-road diesel engines, usually used in construction and other heavy industrial settings. They discussed the disproportionate effects of diesel particulate matter on communities of color and low-income communities in Oregon, noting that the disparity is an environmental justice issue in addition to overall public health concern. Commissioners asked clarifying and informational questions throughout the presentation, and noted their specific and continued interest in diesel particulate matter as a significant pollution concern for Oregon.

Davis noted that future informational presentations would include additional detail on the regulatory authorities for diesel at the commission, state and federal level and provide an overview of existing programs and activities and those planned for state action over the next several years.

*Chair George recessed the commission at 5:17 p.m. until 9 a.m. on Friday, July 17, 2020.*

### **Friday, July 17, 2020: 9 a.m. to 12:30 p.m.**

- Commissioners present: Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Wade Mosby

*Chair George reconvened the meeting at 9:06 a.m.*

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

Director Whitman presented verbal highlights of the written materials provided in the report for this item regarding agency activities and other issues of interest to the commission. Jennifer Wigal, Water Quality Division Deputy administrator, provided an update on recent federal actions related to Waters of the United States, and potential future actions by DEQ and recommendations to the commission under the Oregon Environmental Protection Act.

#### **H. Informational: CAFO program updates**

Justin Green, Water Quality Division administrator, provided an overview of the Confined Animal Feeding Operations, or CAFO, Program and related permits, administered by the Oregon Department of Agriculture under delegated authority from EQC. He described the Memorandum of Understanding that codifies that authority, and noted that the MOU is updated every five years and will be brought for commission consideration at the November 2020 meeting, prior to its Dec.31, 2020, expiry.

Wym Matthews, Oregon Department of Agriculture Program Manager for Fertilizer and CAFOs, provided a history of the CAFO program, including the MOU and related permits, since its establishment in the 1990s. Matthews described the current number and type of CAFOs across Oregon, and explained what processes exist for permit review, compliance assurance and enforcement when permit conditions are violated. Commissioners asked clarifying and informational

questions throughout the presentation, and Director Whitman provided some responses in addition to replies from Green and Matthews.

### **I. Action: Agency Request Budget certification**

Director Whitman introduced this item and provided a short process update regarding the development of the agency's 2021-23 Agency Request Budget. Annalisa Bhatia, Senior Legislative Liaison, presented the proposed policy option packages, or POPs, and legislative concepts, or LCs, for the Central Services Division, and noted that the requests include a number of requests that would help bolster infrastructure and other administrative functions, and staff, that have been reduced significantly over the past 10 years.

Abby Boudouris, Senior Policy and Legislative Analyst for Land Quality, Matt Davis, Senior Policy and Legislative Analyst for Air Quality, and Rian Hooff, Senior Policy and Legislative Analyst for Water Quality, presented the POPs and LCs for their respective programs. Throughout the presentation, commissioners asked clarifying and informational questions and Director Whitman provided additional information on the relationship between POPs, LCs and agency priorities.

The commissioners discussed the material and noted their general feedback and prioritization for the policy option packages and legislative concepts, acknowledging the uncertainty in presenting a set of budget requests when overall state revenues are declining. Director Whitman explained that the Agency Request Budget must be submitted this fall, and commissioners will be informed of changes to any elements based on Governor Brown's directives or legislative action regarding state budgets. He noted that the commission must approve the agency's budget requests, per state rules for agencies which are governed by oversight bodies, like DEQ and EQC.

**Action:** Authorize Chair George to sign the DEQ 2021-23 Agency Request Budget certification form on behalf of the commission as part of the agency's Sept. 1, 2020, budget submittal to Governor Brown.

**Move:** Vice-chair Baraso

**Second:** Commissioner Kile

***The commission unanimously approved the action***

### **J. Public forum**

At 11:55 a.m., Chair George opened the public forum, an opportunity for any person to address the commission on environmental topics. Thirteen people provided comments to the commission, on a variety of environmental issues and concerns across the state. Commissioners asked for clarifying or informational follow-ups from DEQ for some items. Director Whitman provided some verbal responses to commission questions, and indicated that he would provide follow-up regarding Riverbend Landfill, Columbia Pacific Biorefinery and Portland Harbor as part of the September regular EQC meeting.

*Chair George adjourned the public meeting at 12:50 p.m.*

Commissioners attended an executive session with some senior DEQ staff and representatives of the Oregon Department of Justice from approximately 1 to 1:45 p.m. This executive session was by teleconference, and was held pursuant to ORS 192.660(2)(f) and (h).

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***Remaining 2020 meeting dates (by teleconference)***

*September 17-18*

*November 19-20*