



State of Oregon Department of Environmental Quality

Minutes: 413th Oregon Environmental Quality Commission meeting

March 25-26 2021: Teleconference (Zoom and telephone)

Thursday, March 25: 12:30 to 4 p.m.

- **Present:** Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Molly Kile and Commissioner Wade Mosby
 - *Vice-chair Baraso left the meeting at approximately 12:50 p.m., and was not present for the vote on Item C.*

Welcome and meeting open

Chair George convened the meeting at approximately 12:35 p.m. Commissioners reviewed the agenda and Director Whitman noted that Item B had been rescheduled to the May 2021 regular meeting. No other changes were made to the agenda.

A. Action: Meeting minutes

The commissioners reviewed the draft meeting minutes from the Jan. 21-22, 2021, regular EQC meeting.

Action: Approve the minutes as presented from the Jan. 21-22, 2021, regular EQC meeting.

Move: Commissioner Kile

Second: Commissioner Mosby

The commission unanimously approved the action as presented.

Item B was rescheduled for May 2021

C. Action: 1200Z Industrial Stormwater General Permit rulemaking

Justin Green, Water Quality Division Administrator, introduced this item and provided background on the action to bring this general permit for commission action. Christine Svetkovich, Water Quality Manager, described the history of industrial stormwater regulations in Oregon, described the different types of facilities, and their geographic distribution across the state, required to have a 1200Z general permit, and the current obligations of the permit.

Svetkovich noted the legal background, including settlement provisions, associated with the 1200Z general permit rulemaking proposal. She outlined the proposed changes, including those DEQ made

in response to public comment. Commissioners asked clarifying and informational questions throughout the presentation.

Krista Ratliff, Senior Water Quality Permit Writer, provided additional technical detail and clarifications for some commissioner questions. Director Whitman discussed a significant policy change proposed in the rulemaking, related to water quality-based effluent limits. Commissioners discussed the proposed policy change and specifics of the rulemaking.

Action: Adopt the proposed rule amendments seen in Attachment A of the report for this item as part of Chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Kile

Second: Commissioner Mosby

The commission unanimously approved the action as presented.

Following the commission's vote, Chair George and Director Whitman provided closing comments and thanks to the staff for their work, and to all people who participated in the rulemaking and provided comments during its development process.

Item G was taken out of order

G. Informational: Commissioner reports

Director Whitman noted that Chair George and Vice-chair Baraso received Senate confirmation for their reappointment to second terms on the commission.

Commissioner Mosby asked Director Whitman for an update related to wastewater system issues, due to power outages, as a result of the February ice storms. Director Whitman reported no major pollution to Oregon's waters from wastewater systems that suffered storm-related power outages.

Commissioner Kile reported out on her role on OWEB, including recent grant funds disbursed for watershed improvement projects, and OWEB support for the removal of the Klamath Dam.

Chair George noted that, during travel along the Santiam Corridor, she observed a lot of tree-removal activity and recovery in the area, noting that salvage logging provides Oregon the opportunity to use the downed trees to increase stream complexity and provide refugia for fish in the state's rivers.

D. Informational: Cleaner Air Oregon updates

Ali Mirzakhali, Air Quality Division Administrator, introduced this item. Gabriela Goldfarb, Oregon Health Authority Manager, provided introductory comments regarding the Cleaner Air Oregon Program, including the close collaborative relationships developed and ongoing between DEQ and OHA.

Keith Johnson, Cleaner Air Oregon Program Manager, outlined the program's successes over the past two years of implementation. Johnson described the health-based risk assessment elements of

CAO and provided a summary of the process steps required for CAO permitting. Johnson noted some key lessons learned by the CAO staff and ways staff have implemented program improvements.

J.R. Giska, CAO Program Engineer, presented case studies and summary information about new and existing facilities statewide and representing a variety of types of facilities subject to the CAO regulations. For each case study, he outlined the types of air toxics emitted by the sources, general program status and lessons learned by DEQ staff for the facility type.

Johnson summarized the program's work, noting the important connections across Air Quality programs for successful protection of Oregon's air. He outlined the next steps for CAO, including rulemakings to be presented for commission consideration over the next several years.

Director Whitman provided summary comments about the program and noted the exemplary work of J.R. Giska in his role as CAO Program Engineer. Chair George noted her thanks to the staff and all people who have participated in the program development and progress to-date. Commissioner Kile asked for clarification of current status for some facilities in the program, in reference to Table 2 of the staff report. DEQ provided detail on the process steps and some newer requirements in CAO.

Following the staff presentation, Chair George opened a comment opportunity specific to the information presented during the Cleaner Air Oregon Program update. Nine people presented comment on their experiences with and the work of CAO to-date. Names and formal affiliations, if provided, for the commenters is provided below.

1. Sharla Moffett, Oregon Business and Industry
2. Gregory Sortir, Cully Air Action Team
3. Katharine Salzmann, CAO Rules Advisory Committee alternate and community member
4. Tori Heroux, Neighbors for Clean Air
5. Lisa Arkin, Beyond Toxics and CAO Rules Advisory Committee member
6. Mike Eliason, Oregon Forest Industries Council
7. Jessica Applegate, Eastside Portland Air Coalition and CAO Rules Advisory Committee member
8. Greg Bourget, Portland Clean Air
9. Justine Miller, Mutual Materials Company

Following the comments, Director Whitman provided some closing remarks regarding the CAO Program and concerns raised by several commenters.

E. Informational: Oregon Environmental Protection Act report

Director Whitman introduced this item, noting it was an opportunity for commissioners to ask questions about the written report for this item. Ali Mirzakhali, Air Quality Division Administrator,

described the two federal actions for air quality regulations and the potential impacts to Oregon, stating that no commission action was requested at this time. Commissioner Mosby asked clarifying questions about the federal changes to Title V regulations.

F. Public Comment

Four people signed up to present comment to the commission.

1. Dan Serres, Columbia Riverkeeper and Power Past Fracked Gas, presented comments regarding fracked gas projects and asked how DEQ is evaluating these projects and their permit applications.
2. Arjorie Aubery Baribeault, Beyond Toxics, presented comment regarding environmental justice concerns in West Eugene related to the JH Baxter facility.
3. Justine Miller, Mutual Materials Company, noted appreciation for the agency's multi-media approach to regulation, including the 1200Z general permit approved earlier in the meeting.
4. Irene Jackson asked questions regarding air quality regulations for CAFOs, and expressed concerns about nitrate and other water pollution from chicken farming operations.

Recess

Chair George recessed the commission at approximately 4 p.m. until 8:30 a.m. on Friday, March 26, 2021.

Friday, March 26: 8:30 a.m. to 1 p.m.

- **Present:** Chair Kathleen George, Commissioner Molly Kile and Commissioner Wade Mosby

Welcome and meeting open

Chair George reconvened the meeting at approximately 8:30 a.m. Director Whitman reviewed the content for the day's meeting, and the commission made no changes to the agenda.

H. Action: Clean Fuels Program Electricity rulemaking

Colin McConnaha, Office of Greenhouse Gas Programs Manager, introduced the item and summarized some of the program's successes to-date. Cory-Ann Wind, Clean Fuels Program Manager, provided a summary of the program's implementation status. Wind described the proposed rule updates, DEQ's engagement process for the rule development and the ways the proposed rules support the ongoing implementation of the Clean Fuels Program. Commissioners asked clarifying and informational questions throughout the presentation.

Action: Adopt the proposed new rule and rule amendments seen in Attachment A of the report for this item as part of Chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Mosby

Second: Commissioner Kile

The commission unanimously approved the action as presented.

I. Informational: Greenhouse Gas Programs update

Colin McConnaha, Office of Greenhouse Gas Programs Manager, introduced the item and described the proposed structure of DEQ's Climate Protection Program. Nicole Singh, Senior Climate Analyst, outlined the development timeline of the Climate Protection Program, including the agency's considerations and program goals for development. Singh described the advisory committee process to-date, and summarized the key agency considerations of equity, emissions reductions and cost containment being used by DEQ in the development of the proposed program and its associated rules.

Singh described the CPP framework, and ways the program could be implemented under several different policy scenarios for greenhouse gas emissions reductions, and noted key decisions about what sectors are and are not proposed for inclusion in the program at this time. Director Whitman provided additional detail on ways DEQ could help Oregon's electrical utilities move to 100 percent clean energy, since they are outside the scope of the CPP regulatory structure at this time.

Director Whitman introduced the landfill methane emissions reduction work, and proposed rulemaking in development, and the Every Mile Counts program. Michael Orman, Air Quality Manager, described the rule development for landfill methane emissions, noting that the proposed rules would be presented for EQC consideration later this year. He described the Every Mile Counts program, a multi-agency program under the Statewide Transportation Strategy. Commissioners asked clarifying and informational questions throughout the presentation.

Following the staff presentation, the commission opened a comment opportunity specific to the Greenhouse Gas Programs update. Twenty seven people presented comment to the commission. Their names, and affiliations as provided, are below. Comments varied in specific content, but all were related to the Climate Protection Program development, landfill methane issues and greenhouse gas emissions reduction efforts by DEQ.

1. Allie Rosenbluth, CPP Rules Advisory Committee member and Rogue Climate
2. Dylan Plummer, Fossil Free Eugene
3. Dan Serres, Power Past Fracked Gas
4. Alan Journet, Southern Oregon Climate Action Network
5. Patricia Kullberg, Oregon Physicians for Social Responsibility
6. Tim Miller, Oregon Businesses for Climate
7. Erin Saylor, Columbia Riverkeeper
8. Dr. Pat DeLaquil, Metro Climate Action Team
9. Deborah McGee, 350 Eugene
10. Zach Baker, Climate Solutions
11. Ilsa Perse, Stop the Dump Coalition
12. Dr. Janet Lorenzen, Willamette University

13. Kjellen Belcher, Environmental Defense Fund
14. Diane Hodiak, 250 Deschutes
15. Bob Yuhnke, Elders Climate Action
16. Chuck Areford, Eugene resident
17. Nora Apter, Oregon Environmental Council
18. Dr. Theodora Tsongas, environmental health scientist
19. Nora Lehmann, Families for Climate
20. Stuart Liebowitz, Douglas County Global Warming Commission
21. Ramsey McPhillips, Stop the Dump Coalition
22. Margaret Cross, Stop the Dump Coalition
23. Deena Grossman, Portland resident
24. Testimony of Helen Kennedy, read by Brad Reed, Renew Oregon
25. Jane Stackhouse, Metro Climate Action Team
26. Kathy Moyd, Portland resident
27. Brian Herraе, Rainier resident

J. Informational: Director's report

Director Whitman noted key agenda highlights for upcoming regular EQC meetings. He summarized the 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.

Following his report, he noted his, and the agency's, appreciation for Jennifer Wigal, Water Quality Division Deputy Administrator, who served as interim Deputy Director for the past five months. Leah Feldon returns from parental leave to her Deputy Director role on April 1.

K. Informational: Budget and legislative updates

Nancy Bennet, Policy and External Affairs Manager, introduced the item and provided an overview of the presentation. Bennett described the activities of the 2021 Legislative Session, which started in February, and provided summary budget information for the agency. Matt Davis, Abby Boudouris and Rian Hooff, Senior Policy Analysts for the Air, Land and Water Quality Divisions, respectively, each reviewed key bills of interest for the programs. Annalisa Bhatia, Senior Legislative Advisor, summarized bills related to agency management and other agency-wide programs. Commissioners asked clarifying questions and noted their interests in specific legislation throughout the presentation.

Adjourn

Chair George adjourned the regular meeting at 1:05 p.m. Following adjournment, the commission held an executive session by teleconference and pursuant to ORS 192.660(2)(f) and (h) from 1:15 to 2:30 p.m.
