



Notes: Oregon Environmental Quality Commission 429th Regular Meeting, Nov. 16-17, 2023

Thursday, Nov. 16, 2023

Welcome and meeting open

At approximately 9 a.m. Vice-Chair Sam Baraso opened the meeting, reviewed DEQ's mission and the day's agenda.

Attendees: Chair Kathleen George (virtual), Vice-Chair Sam Baraso, Commissioner Amy Schlusser, and Commissioner Mark Webb.

The meeting was held via Zoom and in-person at the DEQ Portland Headquarters (700 NE Multnomah Street, Portland, Oregon 97232) in the 3rd Floor Conference Room.

Item A: Draft meeting minutes (Action)

Commissioners reviewed and took action on proposed draft minutes from the September 2023 meeting.

Action: Approve minutes of the September 2023 regular EQC meeting as presented.

Move: Commissioner Amy Schussler

Second: Commissioner Mark Webb

The Commission approved the motion unanimously.

Item B: Strategic Planning Update (Informational)

Director Feldon introduced the item and staff, Oscar Orejel (virtual), Senior Clean Water State Revolving Fund Loan Specialist, Jamila Thompson, Diversity, Equity and Inclusion Analyst, Lauren Wirtis, Communications Manager, and Matt Davis, Policy and External Affairs Manager, who informed and updated the commission on the process for developing a new strategic plan, grounded in principles of antiracism and equity. The briefing included a synopsis of the work to date, expectations issued by Governor Kotek, and next steps in the process. Commissioners asked clarifying questions and raised concerns about meeting the Governor's deadline of June 2024. Commissioners expect regular updates and encourage DEQ to involve all staff early and often before the final plan is in place.

Item C: Low NOx Omnibus Temporary Rule (Action)

Rachel Sakata, Transportation Section Manager, introduced the item and Eric Feely, Air Quality Planner with the Transportation Section. They presented a proposed temporary rule to delay implementation of the Heavy-Duty Low NOx Omnibus Rule until 2025 when regulatory and implementation issues are expected to be resolved.

Eric shared detailed background and outlined what the temporary rule will do and what happens if it's not approved. Vice-Chair Barasso, Commissioners Schlusser and Webb asked clarifying questions.

Action: Determine that 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

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section of the DEQ staff report; and adopt temporary rules as proposed in Attachment A as part of Chapter 340, Division 261 of the Oregon Administrative Rules to be effective Jan. 1, 2024.

Move: Chair Kathleen George

Second: Commissioner Mark Webb

The Commission approved the motion unanimously.

Break

At approximately 10:20 a.m., the commission took a short break. Vice-Chair Baraso reconvened the meeting at approximately 10:45 a.m.

Item D: Climate 2023 Rulemaking (Action)

Colin McConnaha, Greenhouse Gas Office Manager, introduced this item and staff, Elizabeth Elbel, Greenhouse Gas Reporting Program Manager, and Nicole Singh, Senior Climate Policy Advisor, who presented proposed changes to multiple divisions of rules that govern three different climate programs at DEQ: Greenhouse Gas Reporting program, Third Party Verification program, and DEQ’s Climate Protection Program. Staff presented information to the commission on the need to make a variety of changes, most of which are to clarify program requirements that the agency or regulated parties have found unclear. Commissioners asked clarifying questions.

Action: Adopt the proposed rule and rule amendments as seen on pages 68 through 364 of the staff report as part of Chapter 340 of the Oregon Administrative Rules.

Move: Commissioner Amy Schlusser

Second: Commissioner Mark Webb

The Commission approved the motion unanimously.

Working lunch and executive session

At approximately 11:45 a.m., the commission recessed for lunch and executive session.

Vice-Chair Baraso reconvened the meeting at approximately 1:20 p.m.

Chair George had a conflict and had to leave the meeting after executive session.

Item E: Ballast Water Rulemaking (Action)

Director Feldon introduced the item and staff, Wes Risher, Emergency Response Manager in the Land Quality Division, and Josh Emerson, Ballast Water Coordinator. Wes provided background on DEQ’s ballast water program and how it works in Oregon,

Wes introduced DEQ’s proposal to extend the sunset date of its “exchange plus treatment” rule (OAR 340-143-0050(2)) followed by Josh’s presentation highlighting details about what an extension of the sunset date of the specific rule would mean. He explained that the rule requires commercial vessels carrying freshwater ballast sourced outside the Pacific Northwest to use a two-step management strategy to discharge that ballast in Oregon waters. He added that the current rule has been adopted federally for application to the entire Pacific Coast, but it is not yet in force. Commissioners Schlusser and Webb asked clarifying questions.

Action: Adopt the proposed rule amendments in Attachment A as part of Chapter 340 of

the Oregon Administrative Rules.
Move: Commissioner Mark Webb
Second: Commissioner Amy Schlusser

The Commission approved the motion unanimously.

Item F: Fish and Aquatic Life Use Updates (Action)

Jennifer Wigal, Water Quality Division Administrator, introduced the item and staff, Debra Sturdevant, Water Quality Standards Program Lead, and James McConaghie, Project Manager and Lead for Rulemaking, who presented DEQ’s proposed rule adoption to correct and update Oregon’s fish and aquatic life use designations using the best available data and information. Staff highlighted how the use designations are part of the water quality standards and are important because they set the protection goals for the waterbody and determine where and when different temperature and dissolved oxygen criteria apply to a waterbody to protect aquatic life. Commissioners asked clarifying questions primarily on implications and temperature.

Action: Adopt the amendments to Oregon’s water quality standards at OAR 340-041-0101 through 340-041-0340 and at OAR 340-041-002, as shown in Attachment A of the staff report.

Move: Commissioner Mark Webb
Second: Commissioner Amy Schlusser

The Commission approved the motion unanimously.

Note: At approximately 2:30 p.m., a member of the public virtually interrupted the proceeding due to a technical malfunction. Vice-Chair Baraso acknowledged them for the record and explained how and when the public can participate in the meeting. They were able to speak to the commissioners during the public comment period. Her comments did not pertain to this item.

Break

At approximately 2:37 p.m., the commission took a short break. Vice-Chair Baraso reconvened the meeting at approximately 2:58 p.m.

Chair George re-joined the meeting virtually at 3:03 p.m.

Item G: Recycling Modernization Act Rulemaking (Action)

Cheryl Grabham, Materials Management Program Manager, introduced the item and David Allaway, Waste Prevention Impact Analyst. They presented DEQ’s Materials Management program’s proposed rules to establish foundational elements of the Plastic Pollution and Recycling Modernization Act.

Staff presented detailed information on the program’s proposed rule as it relates to recycling acceptance lists, local government compensation and Producer Responsibility Organization (PRO) obligations. The presentation also addressed the portion of the proposed rules that include responsible end markets, compensation to local governments, collection convenience and performance standards, coordination with other PROs, market share and modified market share and fees.

Commissioners asked clarifying questions about this presentation and a recent informational presentation to the commission.

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Action: Adopt the proposed rules and rule amendments in Attachment 2 of the staff report as part of Chapter 340 of the Oregon Administrative Rules.

Move: Chair Kathleen George

Second: Commissioner Mark Webb

The Commission approved the motion unanimously.

Adjourn meeting

Chair George adjourned the meeting at approximately 4 p.m.

Friday, Nov. 17

Welcome and meeting open

At 9:05 a.m. Chair Kathleen George opened the meeting, reviewed DEQ's mission and the day's agenda.

Vice-Chair Sam Baraso had a conflict and was unable to attend this day.

Attendees: Chair Kathleen George, Commissioner Amy Schlusser, and Commissioner Mark Webb.

The meeting was held via Zoom and in-person at the DEQ Portland Headquarters (700 NE Multnomah Street, Portland, Oregon 97232) in the 3rd Floor Conference Room.

Item H: Director's Report (Informational)

Director Feldon presented written and verbal updates on agency activities and other issues of interest to the commission.

She presented information to the commission in preparation for the public comment portion of the meeting. She informed the commissioners that DEQ anticipates a large number of people to attend and to comment on a pending air permit for Zenith, a fuel products transloading facility. She explained that this issue does not require commission involvement. Chair George asked clarifying questions.

The Director raised the issue of filling Commissioner Molly Kile's liaison role with the Oregon Watershed Enhancement Board. She explained that unlike the other liaison roles with certain agencies, this is a formal voting position and needs to be filled.

Ali Mirzakhali, Air Quality Division Administrator, briefed the commission on the status of DEQ's air quality program efforts, including smoke management and prescribed fire as well as diesel emissions mitigation programs. Commissioners Webb and Schlusser asked clarifying questions.

Mike Korten Hof, Fuel Tank Inspection Section Manager in the Land Quality Division, briefed the commission on the status of implementing new fuel tank seismic stability rules implementation. Commissioners Webb and Schlusser asked clarifying questions.

Sara Slater, Acting Eastern Region Administrator, briefed the commissioners on 3.2 and 3.3 only at the Director's request due to time. Sara briefed the commission on a new Memorandum of Understanding with Lower Umatilla Basin Groundwater Management Area (Morrow and Umatilla Counties). She also provided a brief update on Grassy Mountain Gold Mine (Malheur County). Chair George asked clarifying

questions. Director Feldon added information about the limited access and information about Grassy Mountain Gold Mine being the first chemical mine operation, making this the first time these rules have been necessary. She said there will be a lot of public engagement ahead.

Christine Svetkovich, Northwest Region Administrator, brief the commission on the status of the Columbia Slough Cleanup Agreement with City of Portland (Multnomah County).

Zach Loboy, Western Region Air Quality Manager, gave an update on J. H. Baxter, Eugene (Lane County) and the Winchester Dam (Douglas County). Commissioners asked clarifying questions.

Item I: Agency Request Budget Development (Informational)

Director Feldon and Matt Davis, Policy and External Affairs Manager, briefed the commission on DEQ’s budget structure and the process and key milestones for developing the 2025-2027 Agency Request Budget and associated policy agenda. Commissioners asked clarifying questions.

Break

At approximately 10:45 a.m., the commission took a short break. Chair George reconvened the meeting at approximately 11:05 a.m.

Item J: Public Forum

Chair George opened the public forum portion of the meeting and explained the purpose and scope of the comment opportunity for any environmental and public health issues relevant to DEQ and EQC. In her instructions, the Chair emphasized that, as stated on the meeting agenda, the commission cannot accept comment on the following proposed rules: Round 2 Regional Haze Supplement.

Name	Affiliation (if stated)	Topic
1. Dale Feik (in-person)	WACCAN	Intel
2. James Frazier (in-person)	Trout Unlimited	Water Quality Rulemaking
3. Katherine Braun Federick (Zoom)		Zenith
4. Cynthia George (Zoom)	Midcoast Watershed	Zenith
5. Bonnie Mckinley (Zoom)		Zenith
6. Nela May Parks (Zoom)	Rural Action	Zenith and Port of Morrow
7. Pat Delaquil (Zoom)		Climate Protection Program
8. Alan Journet (Zoom)	Southern Oregon	Climate Protection Program
9. Helena Birecki (Zoom)		Climate Protection Program and Zenith
10. Melanie Plant (Zoom)	Physician of Social Responsibility	Zenith
11. Bill Harris (Zoom)		Zenith
12. Eileen Fromer (Zoom)		Zenith
13. Emily Stebbins (Zoom)	North Portland Teacher	Zenith
14. Josie Moberg (in-person)	Breach Collective	Zenith
15. Pat Kaczmarek (in-person)	XRPDX	Zenith

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16. Liz Jacobs (in-person)	350 Portland	Zenith
17. Mallory Pratt (in-person)	350 Portland	Zenith
18. Bernadette Rogers (in-person)	XRPDX	Zenith
19. Harlan Schober (in-person)	XRPDX	Zenith
20. Nancy Hiser (in-person)	Linnton Neighborhood Association	Zenith
21. Kate Murphy (in-person)	Columbia Riverkeepers	Zenith
22. Kristin Bedmark (in-person)	Citizen	Zenith
23. Diane Meisenette (in-person)	XRPDX	Zenith
24. Evan Gray-Williams (in-person)	Portland Youth Climate Strike	Zenith
25. Jerry Griner (in-person)	350 Portland	Zenith
26. Benjiman Platt (in-person)	350 Portland	Zenith
27. Rebecca Dempson (in-person)	350 Portland, XRPDX	Zenith
28. Margaret Butler (in-person)	XRPDX	Zenith
29. Gillian Butler (in-person)	XRPDX	Zenith
30. Ann Turner (in-person)	350 Portland	Zenith
31. Jacob Apenes (in-person)	Sunrise PDX	Zenith
32. Jan Zukerman (in-person)	Braided River Campaign	Zenith
33. Mikala McCormick (in-person)	XRPDX	Zenith
34. Dineen O'Rourke (in-person)	XRPDX	Zenith
35. Katy McFadden (in-person)	Braided River Campaign, 350 Portland	Zenith
36. Laurie King (in-person)	Jobs with Justice	Zenith
37. Lynn Hardiz (in-person)	XRPDX	Zenith
38. Carl Grimm (in-person)		Zenith
39. Elouon Grimm (in-person)		Zenith
40. Claire Stock (in-person)	XRPDX	Zenith
41. Mark Darienzo (in-person)	Earthquake Specialist, XRPDX	Zenith
42. Michael Mintz (in-person)	PEST	Zenith
43. Annie Capestany (in-	XRPDX	Zenith

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person)		
44. Lena Jaffe (in-person)	Citizen	Zenith
45. Walter Schriener (in-person)	Citizen	Zenith
46. Katherine Muller (in-person)	Citizen	Zenith
47. Sarah McKenzie (in-person)	Citizen	Zenith
48. Carla Sahler (Zoom)	Green Energy Institute	Climate Protection Program
49. Diane Meisenhetter (in-person)		Zenith

Chair George ended public forum at 12:04 p.m.

Item K: Round 2 Regional Haze Supplement (Action)

Ali Mirzakhali, Air Quality Division Administrator, introduced the item and presenters, Michael Orman, Air Quality Planning Section Manager, and Tori Heroux, Air Quality Planner, who provided information to the commission on the proposed rule to update the Round 2 Regional Haze State Implementation Plan submitted in 2022 with additional information to ensure the plan can be approved. The commission heard details to clarify why updates to the plan must be conducted via rulemaking and require commission action. Commissioners asked clarifying questions.

Action: Adopt the proposed rule amendments in Attachment A as part of Chapter 340 of the Oregon Administrative Rules; and approve incorporating the supplemental materials 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: the Regional Haze Supplement, emissions limits necessary for regional haze as enshrined in permits and orders included in the supplement, and the Environmental Quality Commissioner staff report.

Move: Commissioner Mark Webb

Second: Commissioner Amy Schlusser

The Commission approved the motion unanimously.

Adjourn meeting

Chair George adjourned the meeting at 12:27 p.m.