



# Notes: Oregon Environmental Quality Commission 430<sup>th</sup> Regular Meeting, Jan. 24, 2024

**Wednesday, Jan. 24, 2024**

## **Welcome and Meeting Open**

At 9:34 a.m. Chair Kathleen George opened the meeting, reviewed DEQ's mission and the day's agenda.

Attendees: Chair Kathleen George, 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 3<sup>rd</sup> Floor Conference Room.

## **Item A: Draft Meeting Minutes (Action)**

Commissioners reviewed and took action on proposed draft minutes from the November 2023 regular EQC meeting and December 2023 special EQC meeting.

**Action:** Approve minutes of the November 2023 regular EQC meeting and December 2023 special EQC meeting as presented.

**Move:** Chair George

**Second:** Vice Chair Baraso

*The Commission approved the motion unanimously.*

## **Item B: Director's Report (Informational)**

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

### **1.0 Director's Office**

Director Feldon informed the commission of agency activities including her recent speaking engagements with National Environmental Business Council's Meet the Regulators, Oregon State Bar Natural Resources Chapter, Oregon Association of Environmental Professionals, NEBC State of the State, as well as visits in Eastern Region with Deputy Director Shannon Davis. She attended the Leadership Oregon graduation ceremony for staff Zach Mander, Lab manager, Angel Gillette, new CIO, and reported on who the current participants in the program are, Matt Davis, policy manager, and Jaclyn Palermo, land quality manager, and acknowledged each of them for their contributions to DEQ. She also informed the commission that DEQ held a managers' conference in Newport, the first one since the pandemic, and noted that it was the first time for some managers to meet in-person for the first time. Director Feldon acknowledged the significant progress DEQ's IT staff have made as confirmed by the state's approval of DEQ's IT strategic plan. She stated the vision is exceptional and named staff who are part of the work and remarked on their commitment to excellence.

### **1.1 Climate Protection Program**

Director Feldon provided an update on DEQ's Climate Protection Program which faced a setback just as we were reaching significant milestone. She was referring to the Oregon Court of Appeals opinion in Northwest Natural Gas Company v. Environmental Quality Commission. She explained the issue and next steps now that the court decided that DEQ did not fully comply with notice requirements during the rulemaking process for the program, thereby invalidating the final rules and the program. She said DEQ has decided not to appeal this decision and instead take the shortest path to reinstating the program which requires going back through the rulemaking process.

Vice Chair Baraso acknowledged the work of staff who made this happen and that it won't go to waste, saying it's an opportunity. Commissioner Webb asked if there's a way to establish if the commission does in fact have the authority to establish and enforce the program and asked why the court did not opine the issue, the very issue that was the thrust of the complaint. Although the court did not opine on that issue, Director Feldon said that the court's ruling did not impact the commission's underlying authority to establish and enforce the program.

Chair George echoed Vice Chair Baraso's words of appreciation for the work staff did to get the program up and running. She also said it is clear by the support of the program that Oregon is ready to step up.

### **1.2 Office of Compliance and Enforcement**

Director Feldon reported on a new initiative in the Office of Compliance and Enforcement to update its Supplemental Environmental Project Policy to incorporate principles of environmental justice by expanding opportunities for community members impacted by violations to contribute to the project selection process. Commissioner Baraso asked if the projects are preapproved. Director Feldon informed the commission that many of the projects have involved soil and water districts, riparian water projects, wood stove changeouts, as well as work with Friends of Trees, which means large penalties can go toward massive tree planting. Commissioner Schlusser commented on the positive development noting that while penalties can be a great deterrent, she is pleased to hear DEQ is finding ways to ensure communities benefit from enforcement.

### **1.3 and 1.4 Strategic Planning and new Equity Office**

Director Feldon, as part of her update on DEQ's strategic plan, informed the commission of the agency's new Equity Office and staff changes. She introduced Lydia Emer who will lead the DEQ's new Equity Office, for one year. Lydia told the commission she is stepping away from her Land Quality Division Administrator position to take on this new work and will dedicate herself to working with groups and teams across the agency – including the DEI Council and Environmental Justice Work Group – to set up this office for success. Director Feldon and Lydia elaborated on the next steps which include hiring DEI- and EJ-specific positions, ensuring timely completion of the strategic plan and DEI plan, and coordinating the agency action in response to the Organizational Assessment. The commissioners asked clarifying questions and voiced support for the challenging work.

Director Feldon provided an update on DEQ's Strategic Planning Steering Committee continued progress

in developing an anti-racist plan for the agency. She said the committee has been writing early drafts of DEQ's mission and values statements, using input from listening sessions with BIPOC affinity groups, the DEI Council, and others. She elaborated on the committee's current focus and milestones as outlined in the Director's Report available on the meeting agenda webpage.

Director Feldon reported on other leadership positions that will change while the Equity Office is launched. Mike Kucinski, currently Water Quality Deputy Director, will assume the role of Land Quality Division Administrator. Kieran O'Donnell, Office of Compliance and Enforcement Manager, will be the Water Quality Deputy Director. Becka Puskas, Environmental Law Specialist, will be the OCE manager.

### **Item C: Commission Liaison Assignments**

Commissioners discussed the assignment of the Oregon Watershed Enhancement Board liaison, a position that became vacant when former commissioner Molly Kile's term ended in September 2023. Commissioner Mark Webb accepted the role with the commission's approval. The EQC liaison is a voting member of OWEB and will participate in grant application approval and agency vision development. The commission also reaffirmed its liaison positions for the Board of Forestry, currently held by Vice-Chair Sam Baraso, and the Board of Agriculture, currently held by Commissioner Amy Schlusser.

### **1.5 Priority Climate Pollution Reduction Grant Plan (Informational)**

Director Feldon introduced the item followed by a report by Colin McConnaha, Manager of the Office of Greenhouse Gas Programs, which highlighted details about the state of Oregon's new Priority Climate Action Plan under the Climate Pollution Reduction Grant Program and through EPA. He said a plan is in the works and it will focus on developing measures to reduce emissions from transportation, residential and commercial buildings, and food waste and landfills. DEQ hosted a public webinar on Jan. 11 and is requesting public comment on the draft plan until Jan. 26, 2024. Staff ensured the commission that they would update the commission on the finalization of the plan and efforts to secure federal funds to support priority actions. Commissioner Webb and Colin discussed EPA priorities for the grant. asked about EPA priorities for the money and specific pollution reduction actions underway at DEQ.

## **2.0 Air Quality**

### **2.1 Oregon Clean Vehicle Rebate Program 2024 reopening**

Joined by Air Quality Division Administrator Ali Mirzakhali, Director Feldon provided an update to the commission on the suspension of Oregon's electric vehicles rebate program which ran out of money. Ali said more funding will be available in late March. He said the funds are expected to last just two months triggering another suspension of the program. Commissioners asked clarifying questions.

### **2.2 Particular Matter National Ambient Air Quality Standard revision update**

Director Feldon and Ali presented information on the Jan. 6, 2023, revisions the Environmental Protection Agency proposed to the primary annual PM2.5 standard from its current level of 12.0 µg/m<sup>3</sup> to within the range of 9.0 to 10.0 µg/m<sup>3</sup>. DEQ and OHA provided joint comment to the EPA in early 2023

and DEQ anticipates EPA will publish the final rule by the end of January 2024. DEQ will keep the commission informed as soon as the rules become final and about what future work will be required.

### 3.0 Water Quality

#### 3.1 Proposed aquatic life criteria updates

Joined by Water Quality Division Administrator Jennifer Wigal, Director Feldon introduced the informational item on the status of the Integrated Water Resource Strategy updates. They shared details of DEQ's rulemaking to adopt new aquatic life criteria, as well as the federally promulgated criteria based on EPA's most recent recommendations. The final draft will go out for public comment in the spring. They shared information about what the updates would address. Chair Geroge voiced concern for the sense of urgency or lack thereof, for addressing the issues.

##### **Item D: Gasoline Dispensing Facility Emissions Rulemaking Update (Informational)**

Director Feldon and agency staff updated the commission on DEQ's rulemaking to revise air quality applicable to Gasoline Dispensing Facilities found in Oregon Administrative Rules, Chapter 340, Divisions 242 and 244. Staff highlighted how the proposed rules would reduce emissions from new and certain existing facilities. The agency expects to bring proposed rules to the commission at their meeting in March 2024.

Commissioners asked clarifying questions, specifically, Commissioner Webb asked about the industry reaction to the plan, implementation, and expectations. Co-Chair Baras asked clarifying questions about timelines, and deadlines. Commissioner Schlusser asked about the costs.

##### **Break**

At approximately 11:10 a.m., the commission took a short break. Chair George reconvened the meeting at approximately 11:25 a.m.

##### **Item E: Director Delegation Package and Rulemaking Plan (Action)**

Agency staff presented their annual rulemaking plan and proposed a package of specific one-time rulemakings to be delegated to the Director for final approval in calendar year 2024.

**Action:** Delegate the following 2024 rulemakings (described in attachment A to agenda item E) to DEQ Director Feldon for a decision: 2024 air quality fee adjustments, High hazard rail tank fee 2023, Low-NOx delayed effective date and identity with the California Air Resources Board, Air quality rules to address federal regulations 2023, Noise 2024, and Title V fee increase 2023.

**Move:** Vice-Chair Baraso

**Second:** Commissioner Webb

*The Commission approved the motion unanimously.*

##### **Item F: Climate Protection Program CCI Price Extension Temporary Rule (Action)**

This item was canceled prior to the meeting. Notice was provided on the EQC meeting agenda webpage.

**Working Lunch and Executive Session**

At approximately 12:10 p.m., the commission recessed for lunch and executive session. Chair George reconvened the meeting at 1:45 p.m.

**Item G: Public Forum**

The commission held a comment opportunity for any environmental and public health issues relevant to DEQ and EQC. The Chair informed the public that the commission could not hear comment on the following proposed rules: Gasoline Dispensing Facility Emissions, High Hazard Rail Tank Fee, Title V Fee Increase, and Powder Basin Total Maximum Daily Load. People spoke in person and virtually.

Name	Affiliation (if stated)	Topic
1. Sharla Moffett	Oregon Business and Industry	Cleaner Air Oregon
2. Chad Darby	Maul Foster and Alongi	CAO
3. Martha Cox	Columbia Steel	CAO
4. Brien Flanagan	Schwabe	CAO
5. Tyler Ernst	Oregon 0Forest Industries Council	CAO
6. Nora Lehmann	Families for Climate	Climate Protection Program
7. Tim Miller	Oregon Business for Climate	CPP
8. Laura Link	The Nature Conservancy	CPP
9. Jane Stackhouse	MCAT	CPP
10. Nora Apter	Oregon Environmental Council	CPP
11. Joshua Basdin	Climate Solutions	CPP
12. Amy Randel	OEC	CPP
13. Josie Moberg	Breach Collective	Zenith
14. Catherine Bax	Oregon Physicians for Social Responsibility	Zenith
15. Juan Vildisola	SINA	Zenith
16. Mike Fairhurst	Northeast Portland community member	Zenith
17. Pat Kaczmarek	Portland resident	CPP and Zenith
18. Melissa Kostilecky	Families for Climate/	CPP
19. Dineen O'Rourke	350 PDX	Zenith and CPP
20. Laurie King	Jobs with Justice	Zenith
21. Diane Meisenhelter	Not stated	Zenith
22. Lynn Handlin	Outer-east County resident	Zenith
23. Mary Moerlins	NW Natural	CPP
24. Ben Platt	Southeast Portland resident	CPP and Zenith
25. Jace Jones	AmeriTies West	CAO
26. Karen Harrington	Climate Reality Portland Chapter	CPP
27. Mercedes Elizalde	Latino Network	CPP
28. Alan Journet	Southern Oregon Climate Action Now	CPP
29. John Livingston	Salem resident	CPP
30. Teryn Yazdani	Beyond Toxics	CPP
31. Xitali Torres	Verde	CPP

32. Dale Feik	Washington County Citizen Action Network	Intel
33. Ken Barker	Tigard resident	CPP
34. Pat Delaquil	MCAT	CPP
35. Laura Rogers	Southeast Portland resident	CPP
36. Ira Cuello-Martinez	PCUN	CPP
37. Neil Baungsan	Environmental Center in Bend	CPP
38. Chloe Gilmore	Portland Youth Climate Strike	Zenith
39. Brian Steward	Electrify Now	CPP
40. Rene Braga	Unite Oregon	CPP
41. Cherice Bock	350 PDX	CPP
42. Melanie Plaut	Local doctor	CPP and Zenith
43. Petal Peloquin and Elsa Warner	Grant High School Climate Justice Club	CPP
44. Kaleb Lay	Oregon Rural Action	Port of Morrow
45. Pauline Jackson	Portland resident	CPP
46. Phil Carver	350 Salem Oregon	CPP
47. Samantha Hernandez	Oregon Physicians for Social Responsibility	Zenith
48. Chris Orsinger	Lane county senior citizen	CPP
49. Nancy Hiser	Linnton resident	Zenith
50. Bill Harris	Oregon resident	CPP
51. Kate Murphy	Columbia Riverkeeper	Zenith

Chair George ended public forum at approximately 3:05 p.m.

**Item H: Cleaner Air Oregon Five-Year Report (Informational)**

DEQ’s Air Quality Administrator and Director Feldon provided updates to the commission on the Cleaner Air Oregon program, including how the program is reducing air toxics emissions and associated health risks since rule adoption in November 2018. They discussed the status of permitted facilities in the program, highlights of the successes and challenges the program has faced over the past five years of implementation, and strategies and resources DEQ will utilize moving forward to increase the efficiency and effectiveness of the program. Co-Chair Baraso, Commissioners Webb and Schlusser asked clarifying questions.

**Adjourn Meeting**

Chair George adjourned the meeting at 4:20 p.m.