



# Notes: Oregon Environmental Quality Commission

## 431<sup>st</sup> Regular Meeting, March 21-22, 2024

**Thursday, March 21, 2024**

### Welcome and Meeting Open

At approximately 9:01 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 Eugene DEQ offices (165 E. 7th Avenue, #100, Eugene, OR 97401) in the Willamette Conference Room.

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

Commissioners reviewed and took action on proposed draft minutes from the January 2024 meeting.

**Action:** Approve minutes of the January 2024 regular EQC meeting as presented.

**Move:** Vice-Chair Baraso

**Second:** Commissioner Schlusser

*The Commission approved the motion unanimously.*

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

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

Director Leah Feldon told the commission that she has been visiting Vehicle Inspection Program (VIP) stations and that the program is very visible to the public. It's how many Oregonians know DEQ. VIP stations are found in and around Portland, as well as the Rogue Valley.

Director Feldon also told the commission how DEQ has been reviewing and updating Tribal policy. There was a waiting list for a recent training about Tribal policy offered by Portland State University so there is plan to do more.

Colin McConnaha, Office of Greenhouse Gas Program Manager, said that DEQ had submitted Oregon's Priority Climate Action Plan to EPA on Feb. 29. This is to secure funding under the federal Inflation Reduction Act of 2022. DEQ is now working on an application to submit to EPA by April 1. There are three categories for "shovel-ready" projects: transportation (such as Charge Ahead rebates for electric vehicles); buildings (such as how to heat, electrify and build buildings); and material management (such as food waste.)

Commissioners asked clarifying questions, including whether EPA provides feedback on the plan.

#### Translation or other formats

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800-452-4011 | TTY: 711 | [deqinfo@deq.oregon.gov](mailto:deqinfo@deq.oregon.gov)



Mike Kucinski, Interim Land Quality Administrator, provided an update on the Recycling Modernization Act rulemaking. There have been six rulemaking advisory board meetings and two more are schedule. The rulemaking will likely go out for public comment and the goal is to hear from a diverse group. DEQ wants the rulemaking to represent the entire state.

Jennifer Wigal, Water Quality Division Administrator, gave an overview of total dissolved gas water quality modifications for Columbia River dams approved in 2020, which allow for increased spills from April to August. DEQ is starting a process with the U.S. Army Corps to adjust the modification, including moving spill season up to March 1. Commissioners asked clarifying questions and Wigal said she'd return in six months to provide an update. DEQ staff are in early conversations with the Army Corps on a request for a new modification order to allow for implementation of the planned operations in the memorandum of understanding (MOU) beginning with the 2025 fish spill season.

Ali Mirzakhilili, Air Quality Division Administrator, discussed new National Ambient Air Quality Standards for particulate matter 2.5 (PM2.5). There's a governor letter to EPA regarding attainment, saying whether we are meeting the standard or not. Data is from 2021-2023 and the data includes several exceptional events brought by wildfires. DEQ's assessment is that the entire state is meeting the standard when you remove wildfire data. DEQ will be required to submit an infrastructure plan and make clear that we are not adversely impacting another state.

DEQ plans to reopen the Oregon Clean Vehicle Rebate Program in early April and keep it open for two months. The program provides rebates for the purchase or lease of some new and used electric vehicles. The program was popular in 2023.

EPA awarded DEQ a grant in December 2022 to conduct community-level air monitoring in four communities across the state. The Community Air Action Planning, or CAAP, team is working on selecting the four communities. CAAP is a community-led air quality improvement pilot program focused on partnering with environmental justice communities experiencing air quality challenges. Chair George asked questions about what sort of support might be available for communities.

Mirzakhilili also gave an update on Lane Regional Air Protection Agency's plan to come to EQC for approval of rule updates to become the state implementation plan. LRAPA is the only local air regulation agency in Oregon and it maintains rules that fit with DEQ.

Director Feldon provided an update about the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). DEQ settled a penalty with Lamb Weston Hermiston for wastewater permit violations for \$143,400 on Feb. 14, 2024. The settlement includes corrective measures the facility is required to complete and provides an option for Lamb Weston to direct up to 80% of the penalty amount to a Supplemental Environmental Project that benefits human health and the environment. The facility has 45 days to submit an approvable project to DEQ or must pay the full penalty to the state's general fund. The penalty is part of the LUBGWMA story and the company is one of the entities that land applies wastewater. DEQ is also working to renew the facility's wastewater permit, which expired in December 2009 and is currently in administrative extension. DEQ is adding provisions for land application to take place in winter when crops are not being grown. Commissioners asked clarifying questions about groundwater monitoring and wastewater permitting. Director Feldon explained that DEQ has jurisdiction over the treatment of and disposal of wastewater. Oregon Heath Authority has jurisdiction over drinking water. Oregon Department of Agriculture regulates irrigated agricultural.

Keith Andersen, Western Region Administrator, provided an overview of onsite permitting for the Lazy Days RV and Mobile Home Park in Blue River, a project by the Homes for Good Housing Agency as part of wildfire recovery. The Holiday Farm Fire in 2020 destroyed the mobile home park along the McKenzie River. DEQ put the permit out for public comment and the permit will go before the EQC in May because it falls under the Three Basin Rule, which protects the waters of the McKenzie, as well as the Clackamas and North Santiam rivers.

Karen Williams, Water Quality Monitoring Manger, provided information about four reports coming out soon from the DEQ lab – the 2022 Oregon Air Quality Monitoring Annual Report, the 2022 Air Toxics Summary Report, the 2023 Wildfire Smoke Trends Report, and the 2023 Oregon Water Quality Index Report. Commissions asked clarifying questions about trends in the reports.

### **Item C: Coastal Zone Amendments and Reauthorization Act Update (Informational)**

Oregon’s Coastal Nonpoint Pollution Control Plan was disapproved in 2015 under the federal Coastal Zone Amendments and Reauthorization Act. Since then, Oregon has been revising its plan. DEQ staff (Jennifer Wigal, Water Quality Administrator; Steve Mrazik, Watershed Management Manager; and Josh Seeds, Non-Point Source Pollution Analyst; plus Amanda Punton, Natural Resources Specialist with the Oregon Department of Land Conservation and Development, and the Oregon Department of Forestry) provided an update on Oregon’s work to revise its plan and to resubmit it to the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration in the fall of 2024.

Commissioners asked clarifying questions, including timeline and scope of the plan. The panel and Director Feldon responded. Chair George noted it was exciting to see Oregon get back to this.

### **Break**

At approximately 11:30 a.m., the commission took a short break. Chair George reconvened the meeting at approximately 11:37 a.m.

### **Item D: Climate Protection Program Update (Informational)**

DEQ staff (Colin McConaha, Office of Greenhouse Gas Program Manager, and Nicole Singh, Senior Climate Policy Advisor) provided an update on plans for a rulemaking in 2024 to reinstate a climate program in place of the recently invalidated rules that established the Climate Protection Program. The update included plans for establishing and engaging with a Rules Advisory Committee, a subsequent public comment period, and staff plans for seeking EQC action before the end of the year.

Director Feldon gave an overview of the plans underway to get the Climate Protection Program going again following a court decision. The decision was broad enough to invalidate the entire program. That’s typically a nine-to-ten-month process.

Commissioners asked clarifying questions.

### **Working Lunch and Executive Session**

At approximately 12:07 p.m., the commission recessed for lunch and executive session. Vice-Chair Baraso reconvened the meeting at approximately 1:20 p.m.

### Item E: Public Forum

Vice-Chair Baraso opened the public forum portion of the meeting at approximately 1:20 p.m. and explained the purpose and scope of the comment opportunity for any environmental and public health issues relevant to DEQ and EQC. In his instructions, the Vice-Chair emphasized that, as stated on the meeting agenda, the commission cannot accept comment on the following proposed rules: Gasoline Dispensing Facility Emissions, Lower Columbia-Sandy Subbasin Total Maximum Daily Loads (TMDL), Lane Regional Air Protection Agency (LRAPA) Title 47 – Open Burning, Powder River Basin TMDL, and Willamette Subbasin TMDL.

Name	Affiliation (if stated)	Topic
1. Jim Neu	350 Eugene	Climate Protection Program (CPP)
2. Lisa Arkin	Beyond Toxics	CPP
3. Linda Kelley	350 Eugene	CPP
4. Debra McGee	350 Eugene	CPP
5. Aya Cockram	Fossil Free Eugene	CPP
6. Dale Feik	Washington County Citizen Action Network	Intel air quality permit

### Break

At approximately 1:42 p.m., the commission took a short break. Vice-Chair Baraso reconvened the meeting at approximately 2:18 p.m.

### Item F: Gasoline Dispensing Facility Emissions Rulemaking (Action)

DEQ staff (Ali Mirzakhilili, Air Quality Division Administrator; Michael Orman, Air Quality Planning Section Manager; Daniel Defehr, Natural Resource Specialist; Farrah Fatemi, Air Quality Planner;) proposed a rulemaking to revise air quality applicable to Gasoline Dispensing Facilities found in Oregon Administrative Rules, Chapter 340, Divisions 242 and 244. The proposed rules are intended to reduce emissions from new and certain existing facilities.

Commissioners asked clarifying questions, including effects on vulnerable populations and cost estimates.

**Action:** Adopt the proposed rules in Attachment A and D 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 State Implementation Plan revision to the U.S. Environmental Protection Agency for approval.

**Move:** Commissioner Schlusser

**Second:** Commissioner Webb

*The Commission approved the motion unanimously.*

### Item G: Governor Kotek Expectations for Agencies (Informational)

DEQ staff (Brian Boling, Central Services Division Administrator) presented on [Governor Kotek's](#)

[expectations](#) for all Oregon state agencies, and provided an update on DEQ's progress. Boling provided updates on Your DEQ Online (YDO), an online environmental data management system, and recruiting efforts that incorporate Diversity, Equity and Inclusion. Commissioners asked clarifying questions, including hiring challenges and changes to staff performance reviews.

## **Adjourn Meeting**

Chair George adjourned the meeting at approximately 3:41 p.m.

### **Zoom recording for Thursday, March 21, 2024:**

[https://deq-oregon-gov.zoom.us/rec/share/0c\\_E7LteLRyA6kh0yF8yP\\_fr3ckALz32Rd-ER\\_Qs4dOLH6TaECZvY8TWBCKTJzRa.kpUr2ZcvTQwcAmRR](https://deq-oregon-gov.zoom.us/rec/share/0c_E7LteLRyA6kh0yF8yP_fr3ckALz32Rd-ER_Qs4dOLH6TaECZvY8TWBCKTJzRa.kpUr2ZcvTQwcAmRR)

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## **Friday, March 22, 2024**

### **Welcome and Meeting Open**

At approximately 9:02 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 Eugene DEQ offices (165 E. 7th Avenue, #100, Eugene, OR 97401) in the Willamette Conference Room.

### **Item H: 2024 Legislative Session Debrief (Informational)**

DEQ staff (Logan Gilles, Legislative Coordinator) provided a summary of outcomes from the 2024 Legislative Session, focusing on policy and budget matters impacting, or of interest to the work of the agency and commission.

Commissioners asked clarifying questions, including staffing of the state Environmental Justice Council (EJC) and funding for more groundwater work in Oregon.

### **Item I: Agency Request Budget Update (Informational)**

DEQ staff (Abby Boudouris, Senior Policy and Legislative Analyst; Rian Hoof, Senior Policy and Legislative Analyst; Aeron Teverbaugh, Senior Policy and Legislative Analyst) briefed the commission on the 2025-2027 Agency Request Budget development process, including a preview and discussion of key budget and policy issues and priorities.

Commissioners asked clarifying questions, including air curtain incinerators as an alternative to field burning and funding for high hazard rail program.

### **Break**

At approximately 10:41 a.m., the commission took a short break. Chair George reconvened the meeting at approximately 11 a.m.

## **Item J: Strategic Planning Update (Informational)**

Members of DEQ’s Strategic Planning Committee (Becka Puskas, Interim Office of Compliance and Enforcement Manager; Nicole Singh, Senior Climate Policy Advisor; Smita Mehta, TMDL Basin Coordinator; Harry Esteve, Communications) provided an update to the commission on the strategic planning process and draft plan.

Commissioners asked clarifying questions and offered insights. Esteve said the Strategic Planning Committee is committed to changing DEQ’s culture to one that is antiracist. Chair George noted that this is the beginning of a long journey. Director Feldon said the process goes beyond changing individual mindsets.

## **Adjourn Meeting**

Chair George adjourned the meeting at approximately 12 p.m.

### **Zoom recording for Friday, March 22, 2024:**

[https://deq-oregon-gov.zoom.us/rec/share/zRsy\\_mK2iuTns481ipD2jXAPODmn1kaYhN8lqmbGv-01uNp\\_V34jt-GSgGyGDaqz.3x-fAVP9hGqTPFwH](https://deq-oregon-gov.zoom.us/rec/share/zRsy_mK2iuTns481ipD2jXAPODmn1kaYhN8lqmbGv-01uNp_V34jt-GSgGyGDaqz.3x-fAVP9hGqTPFwH)

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