



# Notes: Oregon Environmental Quality Commission

## 432<sup>nd</sup> Regular Meeting, May 23, 2024

### Welcome and Meeting Open

At approximately 9:03 a.m., Chair Kathleen George opened the meeting and 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 the proposed draft minutes from the March 2024 regular EQC meeting.

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

**Move:** Commissioner Webb

**Second:** Vice-Chair Baraso

*The commission approved the motion unanimously.*

After Item A, Chair George had to step away from the commission meeting. Vice-Chair Baraso assumed the chair role in her absence.

### Item B: Klamath Falls PM<sub>2.5</sub> Maintenance Plan (Action)

*Presenters: Graham Bates, Michael Orman*

Staff presented information on DEQ's monitored ambient concentrations of fine particulate matter, or PM<sub>2.5</sub>, measured in the Klamath Falls Air Quality Management Area over the past three years. Staff explained that it has been below the National Ambient Air Quality Standards for PM<sub>2.5</sub>, and therefore DEQ proposed to request the EPA redesignate the area from nonattainment to attainment and accept the proposed maintenance plan.

Staff recommended the EQC approve:

- The contents of the maintenance plan;
- Revisions to administrative rules needed to update the State Implementation Plan citation;
- Revisions to administrative rules changing the area from nonattainment to maintenance; and
- Submitting the SIP to EPA for review and approval.

Commissioners Schlusser and Webb asked clarifying questions.

**Action:** Move that the Environmental Quality Commission adopt the proposed rules in

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Attachment A 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 SIP revision to the U.S. Environmental Protection Agency for approval.

**Move:** Commissioner Webb

**Second:** Commissioner Schlusser

*The commission approved the motion unanimously.*

Director Feldon took a moment to celebrate attainment in Klamath Falls after 16 years of nonattainment. She applauded actions of the community and Klamath public health officials. Vice-Chair Baraso and Commissioner Webb provided positive feedback.

### **Item C: Lane Regional Air Protection Agency Rulemakings: Air Quality Permitting Rules and Title 47 Outdoor Burning Rules (Action)**

*Presenters: Max Hueftle (LRAPA), Travis Knudsen (LRAPA), Michael Orman, Jonathan Wright (LRAPA)*

Lane Regional Air Protection Agency, or LRAPA, staff proposed revisions to existing permitting rules primarily to address changes in DEQ's air quality regulations adopted by the commission on Nov. 18, 2022 (effective March 1, 2023). These amendments would enhance consistency with state regulations. LRAPA staff also proposed updates to outdoor burning rules to address changing community needs.

Commissioner Webb asked clarifying questions. Commissioner Schlusser and Vice-Chair Baraso provided positive feedback.

Chair George returned at 10:18 a.m. Vice-Chair Baraso continued the role of chair for the duration of Item C.

**Action:** Move that the Oregon Environmental Quality Commission: find that the proposed LRAPA rule amendments in Attachment A are not less strict than any EQC rule or standard; approve the proposed LRAPA rule amendments seen in Attachment A under ORS 468A.135(2); approve incorporating the LRAPA rule amendments in Attachment A into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; adopt the proposed State Implementation Plan rule revision in Attachment C as part of Chapter 340 of the Oregon Administrative Rules; and direct DEQ to submit this 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.*

**Action:** Move that the Oregon Environmental Quality Commission: find that the proposed LRAPA rule amendments in Attachment A are not less strict than any EQC rule or standard; approve the proposed LRAPA rule amendments seen in Attachment A under ORS 468A.135(2); approve incorporating the LRAPA rule amendments in Attachment A into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040; adopt the proposed State Implementation Plan rule revision in Attachment D as part of Chapter 340 of the Oregon Administrative Rules; and direct DQ to submit this 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.*

Director Feldon congratulated Travis Knudsen on his new position as Director of LRAPA.

**Break**

At approximately 10:23 a.m., the commission took a short break. Chair George reconvened the meeting at approximately 10:58 a.m.

**Item G: Public Forum**

The commission held a comment opportunity for any environmental and public health issues relevant to DEQ and EQC. Chair George informed the public that the commission could not hear comments on the following proposed rules: Aquatic Life Toxics Criteria 2024, Lower Columbia-Sandy Basins Temperature TMDL, Power River Basin Bacteria TMDL, and Willamette Subbasins Temperature TMDL.

<b>Name</b>	<b>Affiliation (if stated)</b>	<b>Topic</b>
1. Dale Feik	Washington County Citizen Action Network	Intel NEIC Report
2. Samatha Hernandez	Oregon Physicians for Social Responsibility	Zenith
3. Lynn Handlin	Extinction Rebellion PDX	Zenith
4. Michael Miniz	E2 Consulting	Zenith
5. Mary Stites	NW Environmental Defense Center	Zenith
6. Jenna Boivin	Columbia Riverkeeper	Zenith
7. Michaela McCormick	Extinction Rebellion PDX	Zenith
8. Sean McClintock	Foster-Powell Neighborhood Association	Zenith
9. Harlan Shober	Extinction Rebellion PDX	Zenith
10. Dineen O'Rourke	360PDX	Zenith
11. Melissa Kostelecky	Families for Climate	CPP
12. Diane Meisenhelter	NE Portland Resident	Zenith
13. Jon Stark	Economic Development for Central Oregon	CPP
14. Audrey Leonard	Columbia Riverkeeper	CPP
15. Ian Connolly	Columbia Riverkeeper	Zenith
16. Benjamin Platt	SE Portland Resident	Zenith
17. Tim Miller	Oregon Business for Climate	CPP
18. Kate Murphy	Columbia Riverkeeper	Zenith
19. Alyssa Koomas	Public Health Practitioner	CPP
20. Nancy Hiser	Linnton Resident	Zenith
21. Cathy Spofford	SW Portland Resident	Zenith
22. Otto Yunker	Cully Neighborhood Resident	Zenith
23. Grady A. Preston II	SE Portland Resident	Zenith

Name	Affiliation (if stated)	Topic
24. Bonnie McKinley (audio issues, so couldn't hear her comment)	N/A	N/A

Chair George ended the public forum at approximately 11:51 a.m.

### Working Lunch and Executive Session

At approximately 11:51 a.m., the commission recessed for lunch and executive session. Chair George reconvened the meeting at approximately 1:25 p.m.

### Item E: Power River Basin Bacteria TMDL (Action)

*Presenters: Jennifer Wigal, Steve Mrazik*

DEQ developed a Total Maximum Daily Load, or TMDL, to address bacteria impairments in the Powder River Basin with public participation. Staff provided a briefing to the commission in May 2023 and came back to the commission in May 2024 for adoption of this TMDL by reference, into rule.

Commissioner Webb asked clarifying questions. Chair George and Vice-Chair Baraso asked for a dashboard and updates on where all the TMDLs are at in the process.

**Action:** Move that the Environmental Quality Commission adopt the proposed rules as seen in Attachment A as part of Chapter 340, Division 42 of the Oregon Administrative Rules and to incorporate, by reference, the Powder River Basin Total Maximum Daily Loads (Attachment B) and Water Quality Maintenance Plan (Attachment C) for bacteria.

**Move:** Vice-Chair Baraso

**Second:** Commissioner Webb

*The commission approved the motion unanimously.*

### Item F: Procedural Item Related to the Contested Case *In the Matter of Bio-Oregon Protein, Inc., nka Pacific Bio Products – Warrenton, LLC* (Action)

*Presenter: Gary Vrooman (Department of Justice)*

Commissioners considered whether to submit a request to the Office of Administrative Hearings asking the Office of Administrative Hearings to review and provide a written response for the case record regarding an exception raised by Bio-Oregon in its Petition for Commission Review. The exception relates to the Office of Administrative Hearing's reassignment of the Administrative Law Judge assigned to the matter between the contested case hearing and the issuance of the Proposed and Final Order.

**Action:** Move that the Environmental Quality Commission send the request in Attachment 1 to the Office of Administrative Hearings.

**Move:** Commissioner Webb

**Second:** Commissioner Schlusser

*The commission approved the motion unanimously.*

## **Item G: Petition for Declaratory Ruling (Action)**

*Presenters: Christine Svetkovich, Paul Garrahan (Department of Justice)*

DEQ staff presented a recommendation for the commission's response to a petition, received on April 8, 2024, asking the commission to issue a declaratory ruling related to the application of the rules for issuing Air Contaminant Discharge Permits to Zenith Energy.

Commissioners Schlusser and Webb, and Vice-Chair Baraso asked clarifying questions.

**Action:** Move that the Environmental Quality Commission decline to issue a ruling on the Petition for Declaratory ruling described in the staff report for this item and direct DEQ to notify the petitioner of this decision as provided in OAR 137-002-0020.

**Move:** Commissioner Webb

**Second:** Vice-Chair Baraso

*The commission approved the motion unanimously.*

Director Feldon provided additional remarks about DEQ's ability to conduct robust reviews in each process to comply with all existing laws.

## **Break**

At approximately 3:05 p.m., the commission took a short break. Chair George reconvened the meeting at approximately 3:20 p.m.

## **Item H: Lazy Days Water Pollution Control Permit Findings (Action)**

*Presenters: Jennifer Wigal, Sean Rochette, Dan Wiltse*

The Lazy Days RV and Mobile Home Park along the McKenzie River has an active application with DEQ for a Water Pollution Control Facility-Onsite System permit modification. The Lazy Days Park is continuing to rebuild following the 2020 wildfires. The application requests an increase from the current permit flow limits of 4,850 gallons per day to 6,100 gpd. Under the regulations known as the "Three Basin Rule," this increase in permitted flows triggers a process that includes commission approval.

Commissioner Schlusser asked clarifying questions.

**Action:** Move that the Oregon Environmental Quality Commission approve, under the Three Basin Rule, the Water Pollution Control Facility permit modification for the Lazy Days Mobile Home Park, owned by Homes for Good Housing Agency, for an onsite wastewater design flow of up to 6,100 gallons per day.

**Move:** Vice-Chair Baraso

**Second:** Commissioner Schlusser

*The commission approved the motion unanimously.*

## **Item I: Recognition of DEQ's Ambassadors of Public Service (Informational)**

Director Feldon and the EQC recognized DEQ employees nominated for the 2024 Ambassadors of Public Service awards, presented annually by the Governor's Office. Staff appeared in person and online for the presentation.

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

Director Feldon presented written and verbal updates on DEQ activities and other issues of interest to the commission. Among them, she recognized Carol Thornberg, Volunteer Coordinator for Employees' Annual Charitable Fund Drive, who helped raise \$27,780, making DEQ the top fundraiser based on agency size.

Director Feldon also shared information with the commission about the Secretary of State Audit of DEQ and said DEQ agrees with the report's assessment that the agency is under-resourced, but on the right track to develop and implement a strategic plan. She provided an update on DEQ's Strategic Plan and the significant work staff have put into creating it.

### **Office of Greenhouse Gas Programs – Headquarters**

Manager of the Office of Greenhouse Gas Programs, Colin McConnaha, updated the commission on the Clean Fuels Program. He reported that DEQ's 2023 annual data on the transportation fuels supplied in Oregon shows a strong shift away from fossil fuels, and not just from electric vehicles replacing gasoline vehicles, although that trend continues as well.

Commissioners Webb and Schlusser, and Vice-Chair Baraso asked clarifying questions.

### **Air Quality – Headquarters**

Air Quality Administrator Ali Mirzakhilili provided an update on the Clean Vehicle Rebate Program and how it works.

Commissioner Webb asked clarifying questions.

### **Land Quality Division – Headquarters**

Abby Boudouris, Materials Management Analyst, updated the commission on the renewed Materials Management Grants Program, Reduce, Reuse, Reimagine which relaunched on May 21, 2024, after being paused since 2020 to address inequities and inefficiencies within the application process and to better align with DEQ's 2050 Vision for Materials Management and 2020 Framework for Action.

Commissioner Webb asked clarifying questions about grant distributions.

### **Water Quality Division – Headquarters**

Water Quality Administrator Jennifer Wigal updated the commission on the Water Quality Permitting Fees Rulemaking for the July EQC Meeting. DEQ's Water Quality Division is currently pursuing a fee increase rulemaking to support current service levels in several key programs.

Wigal also updated the commission on Aquatic Life Toxics Criteria Rulemaking for the September EQC

Meeting. The objective of this rulemaking is to adopt new and updated aquatic life criteria to keep Oregon's water quality standards consistent with federal recommendations and based on the best available science.

### **Laboratory and Environmental Assessment Division**

Lori Pillsbury, Laboratory and Environmental Assessment Division Administrator, reported that DEQ kicked off monitoring programs at the laboratory in May. One of these programs has recently received public comment and added new areas and two of these programs began for the first time in May and June.

Director Feldon provided an update on ongoing efforts to address eastern Oregon's Lower Umatilla Basin which has affected residential wells.

Director Feldon acknowledged and thanked Chair George and Vice-Chair Baraso for their service as their terms are coming to an end. The commissioners shared parting thoughts and praises.

### **Adjourn Meeting**

Chair George adjourned the meeting at approximately 5:13 p.m.

### **Other Resources**

- [Zoom recording](#) (passcode: 13%r6\*?&)
- [May 2024 EOC webpage](#)

### **Non-discrimination statement**

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).