



State of Oregon Department of Environmental Quality

# Minutes: Oregon Environmental Quality Commission meeting

397<sup>th</sup> regular meeting

*March 21 and 22, 2018*

*PSU Native American Student and Community Center*

*710 SW Jackson Street, Portland*

## **Wednesday, March 21, 2018: 12:30 p.m. to 6:30 p.m.**

Commissioner Kathleen George, presiding for the meeting, convened the commissioners for an executive session from 12:30 to 1:45 p.m. She convened the public meeting at 1:45 p.m.

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

## **Working lunch and executive session**

The commissioners, DEQ staff and Oregon Department of Justice staff met for an executive session over a working lunch. This executive session was held under the authority of ORS 192.660(2)(h).

## **Item A, Action item: Meeting minutes**

Commissioners reviewed the draft meeting minutes from the Jan. 18-19, 2018, regular EQC meeting.

**Action:** Approve as presented

**Move:** Commissioner Mosby

**Second:** Commissioner Kile

*The commission unanimously approved the Jan. 18-19, 2018, meeting minutes as presented.*

## **Item B, Informational item: Cleaner Air Oregon**

Leah Feldon, Deputy Director, presented this item. She described the rulemaking process to-date, explained the agency process for quality assurance of emissions inventory submittals from Oregon facilities and noted that the outcomes 2018 Legislative Session included changes to the proposed program.

Deputy Director Feldon noted that Senate Bill 1541, approved in the 2018 Session, does not fully outline the program. The commission must take action on the proposed program, later in 2018, for the legislation to become implemented.

Deputy Director Feldon described the program changes made in the 2018 bill, noting what elements of the proposed draft rules and program were not changed. Director Whitman provided additional clarification on the bill and noted that DEQ will bring additional, hypothetical, examples regarding the control limits for facilities in the draft proposed rules.

Commissioners asked clarifying and informational questions throughout the presentation. The commissioners also discussed their requests and interests for additional information and clarifications related to the proposed program and rules.

### **Item C, Informational item: Legislative updates**

Director Whitman introduced the item and the co-presenters. Annalisa Grunwald, Legislative advisor, provided an overview of the 2018 Session, in general, and described the agency's work following the Session.

Melissa Aerne, Central Services Division analyst, described bills that affect the agency as a whole. Abby Boudouris, Land Quality Division analyst, described bills that affect the Land Quality programs. Matt Davis, Air Quality Division analyst, described the bills that affect the Air Quality programs. Director Whitman provided additional clarification and detail on some items.

### **Item D, Action item: Agency Request Budget development update and draft Legislative Concepts for 2019 Session**

Nancy Bennett, Policy and External Affairs manager, introduced this item. She provided an overview of the timeline associated with the agency's budget development process. Director Whitman noted that the item today is for review and approval of DEQ continuing development of draft Legislative Concepts to be potentially submitted in fall 2018.

Matt Davis, Air Quality Division analyst, provided contextual information about the program's draft concepts, as seen on the supporting materials for this commission item. He described the three items related to the Air Quality programs and the commissioners asked clarifying and informational questions about the items.

Abby Boudouris, Land Quality Division analyst, provided an overview of what the Land Quality programs do and she described five draft Legislative Concepts related to those programs. She noted that one item on the handout, related to orphan solid waste sites, is being removed from consideration. Commissioners asked clarifying and informational questions throughout her presentation. Gary Vrooman, EQC legal counsel, provided some legal clarification related to the Solid Waste Orphan Fund and its possible uses.

Karen Tarnow, Water Quality Division analyst, described the proposed draft Legislative Concept for groundwater protection programs. Director Whitman provided additional context for this item and related water quality program activities across the state.

Following the staff presentation, Commissioner George opened up an opportunity for public comment specific to this item. One person signed up to present comment.

1. Dale Feik, Hillsboro Air and Water Quality, presented comment to the commission regarding environmental concerns.

Following the public comment, the commissioners reviewed the staff recommendation regarding the draft Legislative Concepts.

**Action:** Direct DEQ to submit the Legislative Concepts in attachment B of the report for this item, with the exception of the concept concerning the Solid Waste Orphan Fund, to the Department of Administrative Services.

**Move:** Commissioner Baraso

**Second:** Commissioner Kile

*The commission unanimously approved the motion as stated*

Commissioner George recessed the commission at approximately 4:45 p.m. until 9 a.m. on Thursday, March 22, 2018.

#### **Item E: Evening town hall**

The commission held a town hall session from 5 to 6:30 p.m. The town hall was not recorded as formal comment or part of the meeting and was an informal discussion opportunity for the commission and members of the public.

*Commissioners and staff attended an informal dinner on Wednesday evening. No commission business was held at dinner.*

#### **Thursday, March 22, 2018: 9 a.m. to 4:30 p.m.**

Commissioner George reconvened the commission at 9 a.m.

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

#### **Item F, Informational item: Agency reorganization updates**

Director Whitman provided an update on the agency reorganization process, and Deputy Director Feldon provided additional detail for the update. Director Whitman introduced two new members of the DEQ Leadership Team, Nancy Bennett and Donnie Oliveira.

Nancy Bennett, Policy and External Affairs manager, and Donnie Oliveira, Communications manager, provided some background information about themselves and their work so far at DEQ.

The commission discussed the reorganization and next steps for the Leadership Team, including strategic planning for the agency.

#### **Item G, Informational item: Director's report**

Director Whitman presented written and verbal updates on agency activities and other state and federal items of interest for the commissioners.

The update included information about:

- The status of the Water Quality Permit Program improvements
- The annual report for Total Dissolved Gas at four dams along the lower Columbia River, as operated by the U.S. Army Corps of Engineers
- Supplemental environmental projects, including one in-progress in Marion County
- The current state and next steps for the Environmental Data Management System project
- Regional highlights for the agency's Eastern, Northwestern and Western Region offices
  - The Grassy Mountain gold mining project near Vale
  - A land transfer process for the now-decommissioned Umatilla Chemical Depot
  - Water quality issues in the Klamath River basin
  - Enforcement and permit issues with Lost Valley Farm, a large dairy cattle operation near Boardman
  - A scrapyard fire in northeast Portland that resulted in one-day evacuation of nearby residences and business
  - Cleanup of a former fiberboard manufacturer in St. Helens
  - Recent public hearings and meetings regarding the seafood processor water quality permit
  - An enforcement action against a quarry operator for violations of stormwater and other permits near Waldport
  - A heating oil tank leak at a school in St. Paul, with immediate and longer-term cleanup response from DEQ and partner agencies

Commissioners asked clarifying and informational questions throughout the presentation.

#### **Item H, Informational item: Zero Emission and Electric Vehicle Rebate Program**

Rachel Sakata, Air Quality planner, presented information about the draft Zero Emission and Electric Vehicle Rebate Program rules. Sakata described the draft program, changes made during the 2018 Legislative Session related to the proposed rebate program and explained that DEQ will bring the proposed program rules for commission review and approval at the May 2018 EQC meeting.

#### **Item I, Informational item: Meeting planning**

Nancy Bennett, Policy and External Affairs manager, presented about logistic and planning details for upcoming commission meetings. Stephanie Caldera, EQC assistant, provided information about the commission's annual self-evaluation survey as part of this item.

**The commission recessed for lunch from approximately 11:30 a.m. to 12:30 p.m.**

**Item J: Public forum**

The commissioners opened a public comment opportunity for any general topics at approximately 12:30 p.m. People were able to present comment by attending in-person or via toll-free telephone conference call. Eighteen people presented comment in-person. Two people presented comment by phone.

Comments have been grouped by general topic. The information presented to the commission included:

- Concerns regarding short-term and long-term climate change
  - The realities of climate change, and the need to significantly reduce emissions and remove excess CO<sub>2</sub> from the current atmosphere in the next 20 years
  - Making choices for the environment within the framework of a finite climate, with opportunities to provide long-term ecological and economic gains
- The need for ongoing engagement with residents across the state on environmental concerns, and concerns about the commission's and DEQ's engagement with industry representatives
- The need for public hearings and early engagement related to the proposed Pacific Connector Pipeline and LNG project at Jordan Cove
  - A formal request for open public hearings specifically in directly-impacted communities, in addition to Portland and Eugene, for the Jordan Cove project and related pipeline
  - The critical nature of DEQ's review and water quality protection for the state related to the proposed pipeline and Jordan Cove LNG project, including stream temperature and fish survival in affected streams
  - Risks associated with the proposed LNG facility in Coos Bay, including risks from potential earthquakes or facility leakage
  - Spill prevention, response and liability related to proposed LNG facilities and infrastructure in Oregon
  - Appreciation for the commissioners' service and reinforcement of the prior concerns related to the Jordan Cove project
  - Concerns about the ongoing use of fossil fuels and encouragement for the commission to lead DEQ to make sustainable decisions, including justice and equity
  - Direct DEQ to not allow the building of the Pacific Connector Pipeline or Jordan Cove project
  - Concerns about the Agricultural Water Quality Management Program's ability to achieve water quality standards, harming native fish species and public health
  - Recent actions by the formal Oregon Democratic delegation to move Oregon toward fully-renewable fuels in the near future and opposition to the Jordan Cove project and Pacific Connector Pipeline

- The significant environmental impacts of the Jordan Cove project, including proposed dredging of the Coos Bay estuary and habitat destruction for native fish species
- Destruction of Klamath ancestral homelands from the Pacific Connector Pipeline and Jordan Cove project, and potential disruption of burial spaces on those lands
- Land confiscation in and near Malin for the construction of the Jordan Cove project and Pacific Connector Pipeline
- Support for the proposed Legislative Concept for prescription drug takeback and product stewardship programs
- Support for the new process to allow public comment in more time-specific relationship to the DEQ staff presentation for certain items on the commission agenda
- Potential pollution, and the related precedent for the DEQ Air Quality Program, from the PGE Carty plant's requested increase to permit levels
  - Concerns about a requested change to permit levels and allowable standards for the PGE Carty plant
- Concerns about water quality standards not being met on forested lands, and a request for the commission to direct DEQ to actively engage on these issues and conversations with the Board of Forestry and others
- Comments specific to the Cleaner Air Oregon program, and elements of Senate Bill 1541 passed by the 2018 Oregon Legislature

Several commenters provided paper or electronic copies of their comments, which were entered into the formal record of the meeting

#### **Item K, Informational item: Materials Management Program annual update**

Staff from DEQ's Materials Management Program presented an annual update on the status and next steps for the *2050 Vision and Framework for Materials Management in Oregon*.

Shannon Davis, Materials Management Program manager, introduced this item and provided some background on the activities of the program. She described the *2050 Vision and Framework for Materials Management in Oregon*, and the ways the vision and framework represent a shift in programmatic approaches to regulatory and non-regulatory functions.

David Allaway, Senior Policy Analyst, described the ways the program uses data, goals and measurement. He described two projects the program is using to track data and apply it in new ways to meet the 2050 Vision.

Peter Canepa, Life Cycle Assessment Specialist, described the process of using life cycle analysis and provided examples of how the program uses this analysis in its work. He showed a product environmental footprint that the program completed in collaboration with the Oregon Sustainability Board in 2016 and 2017.

Jordan Palmeri, Policy Analyst, discussed the ways the program works directly with producers to develop environmental product declarations for concrete. He noted that 70 percent of the total environmental effects of concrete are contained in its production, with the major impacts being from the materials used to create the cement used in concrete production. Palmeri explained that the environmental product declarations are being developed for commercial use, and purchasing decisions, in Oregon and nearby states and provided an example of low-cement concrete mixes being used in the construction of a new courthouse in Multnomah County.

Elaine Blatt, Natural Resource Specialist, described the program's current project to reduce food waste as a major contributor to greenhouse gas emissions in Oregon. She explained that preventing the waste of food has a six-fold environmental benefit when compared to composting the same tonnage of food. Blatt noted that DEQ recently published a five-year strategic plan for food waste prevention, and is seeing major successes in the first year of the plan's implementation.

Blatt also described the Materials Management grants program. She noted the restart of the program in 2015, after a seven-year hiatus due to the economic downturn and related reduction in available grant funds, to emphasize upstream prevention and reduction efforts. Blatt described an expansion in 2016 to provide grants to non-profit entities in addition to government entities and 2017's micro-grants to private business to promote skills and workforce development for reuse and repair.

Brian Stafki, Material Recovery Specialist, provided an overview of Oregon's programs and network for materials recovery, including recycling. He described the history of recycling in Oregon and the current state of recycling in the state, nation and internationally.

Allaway provided a close to the item by describing some of the foundational research the program engages in for Oregon. He outlined the current research into material attributes, which helps people understand the environmental effects of their product choices.

The commissioners asked clarifying and informational questions throughout the item. Commissioner Mosby encouraged DEQ to speed up its timeline to meet the vision and framework before 2050, even with the adoption of intermediary stretch goals by 2030. Commissioner Kile noted her support for the program and expansion into supporting the repair and reuse of electronic devices.

Following the staff presentation, the commission held time for comments specific to the Materials Management Program information. No people signed up to comment for this item.

#### **Item L, Action item: Lane Regional Air Protection Agency rules proposals**

Merlyn Hough, LRAPA director, introduced this item. Max Heufle, LRAPA permit manager, provided background on the agency's rule proposal and the relationship between LRAPA and DEQ.

Heufle presented an overview of the proposed rules, noting that they are separated into two distinct actions item, L1 and L2. He explained that the rules proposed as L1 must be submitted to EPA as a

change to the Oregon State Implementation Plan. The proposed rules in L2 are not part of the federal submittal, but must be approved by EQC as at least as stringent as the existing state rules. Director Whitman and the commission asked clarifying and informational questions about the rule proposals.

*Item L1: Federal submittal of updated rules for inclusion in Oregon State Implementation Plan*

**Action:** Approve incorporating the LRAPA rule amendments into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040 (the “SIP revision”); and direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval.

**Move:** Commissioner Baraso

**Second:** Commissioner Mosby

*The commission unanimously approved the motion*

*Item L2: Updates and revisions to non-SIP rules*

**Action:** Review and approve the proposed LRAPA air quality standards as seen in attachment B of the report for this item.

**Move:** Commissioner Baraso

**Second:** Commissioner Kile

*The commission unanimously approved the motion*

**Item M, Action item: Clean Fuels Program backstop aggregator selection**

Cory-Ann Wind, Clean Fuels Program lead, provided an update on the program’s implementation and some detail on the use of electricity as a transportation fuel in the state of Oregon. She presented the DEQ recommendation for a qualified entity to serve as the backstop aggregator for the Clean Fuels Program. Wind explained that the backstop aggregator would be responsible for monetizing and investing the revenue from credits generated by the residential charging of electric vehicles in areas where the relevant electrical utility is not generating the credits.

Commissioners asked clarifying and informational questions throughout the presentation, and Director Whitman provided additional clarification on some elements of the rule proposal.

**Action:** Approve The Forth Mobility Fund to serve as the Backstop Aggregator for the Clean Fuels Program beginning in 2018, and approve that The Forth Mobility Fund will partner with The Environmental Center for activities in Central Electric Co-op and Mid-State Electric Co-op service areas

**Move:** Commissioner Mosby

**Second:** Commissioner Kile

*The commission unanimously approved the motion*

**Item N, Informational item: Commissioner reports**

The commissioners provided verbal updates on their recent activities of interest to the commission.

- Commissioner Baraso noted his interest to continue ongoing meetings with DEQ staff to discuss legislative and other agency matters
- Commissioner George shared an update about ongoing conversations with the Klamath Tribe related to water quality and quantity issues in the basin this summer, and noted an upcoming meeting of the nine federally-recognized Tribes where she will speak about her role on EQC
- Commissioner Kile provided an update about an upcoming conference for Tribal entities and environmental health at Oregon State University
- Commissioner Mosby presented an update about his work on the Gifford-Pinchot forest advisory board and noted positive leadership changes within that forest entity's oversight body.

Director Whitman noted that DEQ is working with Governor Brown and her Office of Executive Appointments to have a potential appointment in the May interim Legislative Days.

Commissioner George adjourned the commission meeting at approximately 4:20 p.m.

*For questions about the agenda or any commission matters, please contact Stephanie Caldera, EQC assistant: [Caldera.Stephanie@deg.state.or.us](mailto:Caldera.Stephanie@deg.state.or.us) or 503-229-5301.*