



# Notes: Oregon Environmental Quality Commission

## 435<sup>th</sup> Regular Meeting, Jan. 9-10, 2025

**Thursday, Jan. 9, 2025**

### Welcome and meeting open

At 9:06 a.m., Chair Matt Donegan opened the meeting and reviewed the day's agenda.

Attendees: Chair Matt Donegan, Commissioner Karen Moynahan, Commissioner Amy Schlusser and Commissioner Mark Webb. Also present were DEQ Director Leah Feldon and Department of Justice Counsel Gary Vrooman.

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 November 2024 regular meeting.

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

**Move:** Commissioner Mark Webb

**Second:** Commissioner Karen Moynahan

The commission approved the motion unanimously. Chair Matt Donegan, Commissioner Karen Moynahan, Commissioner Amy Schlusser and Commissioner Mark Webb in favor.

### Item B: Clean Fuels Program 2024 Rulemaking (Action)

**In-person presenter:** Bill Peters

**Zoom presenter:** Colin McConnaha

Colin McConnaha, Manager of the Office of Greenhouse Gas Programs, introduced the item via Zoom. Bill Peters, Clean Fuels Program Lead, presented proposed rules that update the program's requirements and tools to calculate greenhouse gas emissions to safeguard the program's environmental integrity. Peters presented information on what the proposed rules include, such as updating the full well-to-wheels OR-GREET fuel carbon intensity model to version 4.0 and updating and adding simplified calculators for Tier 1 fuels. Peters elaborated on other provisions in the proposed rules, including a reserve account for credits from fuel pathways with carbon capture and sequestration projects associated with them, additional tracking requirements for high-risk feedstocks, and a requirement for electricity reporting and fuel pathway applications to go through third-party verification. Chair Donegan, Commissioners Moynahan, Schlusser and Webb asked multiple clarifying questions. Director Feldon reported that DEQ will keep the commission informed of potential updates.

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

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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. Chair Matt Donegan, Commissioner Karen Moynahan, Commissioner Amy Schlusser and Commissioner Mark Webb in favor.

## **Item C: Safety-Kleen Contested Case Final Order (Action)**

**Presenter:** Gary Vrooman (DOJ)

At its Sept. 26, 2024, regular meeting, the commission directed the Oregon Department of Justice to prepare a final order consistent with DEQ's recommended interpretation of 40 CFR §264.147(a). The commission also requested that the number of violations cited in the final order to be reduced to zero. EQC counsel presented a draft of the final order to the commission for discussion and adoption. After the adoption of the order, the commission allowed a clarifying question from an audience member, Jennifer Gates, Attorney at Pearl Legal Group.

**Action:** Move that the Environmental Quality Commission adopt the order attached as Exhibit A to the staff report for this agenda item as the final order in this matter.

**Move:** Commissioner Mark Webb

**Second:** Commissioner Amy Schlusser

The commission approved the motion unanimously. Chair Matt Donegan, Commissioner Amy Schlusser and Commissioner Mark Webb in favor. Commissioner Karen Moynahan did not participate in the adoption of this final order because she previously recused herself from the matter.

## **Break**

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

## **Item D: E-Cycles 2024 Rulemaking (Action)**

**Presenters:** Michael Kucinski, Cheryl Grabham, Michael Lee, Rachel Harding

DEQ presented proposed rules to clarify and implement House Bill 3220, which modernizes the long-standing electronics recycling program, Oregon E-Cycles. DEQ staff provided an overview of the program, including information on its extended producer responsibility structure and waste management strategy that requires producers to share the responsibility for the end-of-life management of their products and materials. DEQ staff recommended creating several new rules and modifying current rules to best serve the E-Cycles program.

Chair Donegan and all commissioners asked clarifying questions throughout the presentation. Both Chair Donegan and Commissioner Webb asked about the makeup of the advisory committee, specifically geographic representation. Staff outlined the advisory committee process which started in early 2024 when DEQ convened an advisory committee of entities who may be affected by administrative rules, to give input to DEQ on proposed concepts. Grabham highlighted how the program will address racial equity by ensuring convenient services, education and outreach, and fair financial compensation.

**Action:** Move that the Environmental Quality Commission adopt the proposed rule amendments in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

**Move:** Commissioner Mark Webb

**Second:** Commissioner Karen Moynahan

The commission approved the motion unanimously. Chair Matt Donegan, Commissioner Karen Moynahan, Commissioner Amy Schlusser and Commissioner Mark Webb in favor.

### Working lunch and executive session

At 12:03 p.m., the commission recessed for lunch and executive session. Chair Donegan reconvened the meeting at 1:05 p.m.

### Item E: Public Forum

The commission held a comment opportunity for any environmental and public health issues relevant to DEQ and EQC. Sign-ups to comment occurred shortly before the start of this agenda item, and people were asked to limit comments to two minutes or less. The commission could not accept comment on the following proposed rules:

- Vehicle Inspection Program Updates 2024
- Willamette River Mainstem and Major Tributaries TMDL

Name	Affiliation (if stated)	Topic
1. Daniel Sears	Columbia River Keeper	<a href="#">NEXT Renewables Oregon, LLC</a>
2. Theodora Tsongas	Physicians for Social Responsibility	NEXT
3. Bonnie McKinlay		NEXT
4. Eileen Fromer		NEXT
5. Sally Keely		NEXT
6. Mary Duvall	Resident of Columbia County	NEXT
7. Dale Feik		High-level comments focused on the essential functions of EQC and DEQ and their commitment to their critical missions
8. Linda Horst		NEXT
9. Mark Keely		NEXT
10. Monica Zazueta Tabor		NEXT
11. Thomas Gordon	Resident of Washougal, Washington	NEXT
12. Diana Gordon	Resident of Washougal, Washington	NEXT

Chair Donegan ended the public forum at 1:40 p.m.

### Item F: Director’s Report (Informational)

**In-person presenters:** Leah Feldon, Jennifer Wigal, Christine Svetkovich, Mike Kucinski, Ali

**Mirzakhilili Zoom presenters:** Laura Frederickson, Keith Andersen

Director Feldon and DEQ's Leadership Team members presented written and verbal updates on agency activities and other issues of interest to the commission.

First, Director Feldon provided a brief update on Governor Tina Kotek's budget. Director Feldon then provided the commission with an update on recent changes to DEQ's Leadership Team in the context of organizational health.

Director Feldon informed the commission that DEQ's staff has grown 30% over the past several years. She also announced key personnel adjustments include elevating Brian Boling to an assistant director role overseeing internal agency functions, including equity work, alongside Lydia Emer, former Land Quality Division Administrator, who is leaving her current position as lead of the Office of Equity to fill Boling's position as Central Services Administrator. The reporting structure and other details are still being developed. Commissioner Schlusser raised a concern about a Land Quality Administrator. Director Feldon introduced Mike Kucinski, who has agreed to continue as DEQ's Interim Land Quality Administrator.

Ali Mirzakhali, Air Quality Administrator, updated commissioners on ongoing projects such as a \$6.5 million EPA grant for electric school buses and efforts related to air quality regulations for animal feeding operations. Commissioner Schlusser commented on EPA's Diesel Grant awarded to DEQ. He specifically provided details about EPA's approval of California's waiver for the Advanced Clean Cars II Rule and the Heavy-Duty Low NOx Omnibus Rule, the Clean Heavy Duty Vehicle Grant, and an update on emissions from dairies.

Jennifer Wigal, Water Quality Administrator, provided updates on DEQ's 2024 Water Quality Standards Triennial Review and Bio-Oregon Protein's NPDES permit challenge. Commissioner Moynahan raised concerns about the water quality permit backlog and expressed interest in a future briefing from DEQ. Director Feldon confirmed that DEQ staff will provide a briefing at an upcoming meeting.

Christine Svetkovich, Northwest Region Administrator, briefed the commission on the status of Zenith, a fuel terminal transloading facility in the northwest industrial part of Portland concerning an ACDP air quality permit application process and DEQ's significant public outreach and education. Most recent action includes a public meeting and an enforcement action. Commissioners asked clarifying questions.

Laura Frederickson, Eastern Region Administrator, provided an update on the Crook County contaminated well water ongoing concerns. She briefed the commission on the steps DEQ has taken so far to address water quality contamination in the wells. DEQ is working with various agencies to assess groundwater issues while pursuing funding for comprehensive sampling plans. Commissioner Webb commented on his own water sampling process and asked about the sampling process, tests, results, and costs.

Keith Anderson, Western Region Administrator, provided an update on specific facilities like ReWorld Marion and J.H. Baxter regarding their operational statuses and environmental clean-up efforts.

## **Adjourn public meeting**

Chair Donegan adjourned the public meeting at approximately 2:40 p.m.

## **Item G: DEQ Vehicle Inspection Station Tour**

**Presenter: Wade Sadler**

The commission toured the Vehicle Inspection Program’s Northeast Portland Clean Air Station and received an overview of daily operations, including the end-to-end experience of the vehicle testing process. DEQ’s Vehicle Inspection Program supports the agency’s mission by testing vehicles to ensure emissions control systems are functioning appropriately. Vehicle emissions are the largest contributor to air pollution in Oregon, and proper functioning emissions systems in vehicles reduce air pollution and air toxics. Please note that this tour was not open to the public.

## **Friday, Jan. 10, 2025**

### **Welcome and meeting open**

At 9:05 a.m., Chair Matt Donegan opened the meeting and reviewed the day’s agenda.

Attendees: Chair Matt Donegan, Commissioner Karen Moynahan, Commissioner Amy Schlusser and Commissioner Mark Webb. Also present were DEQ Director Leah Feldon and Department of Justice Counsel Gary Vrooman.

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 H: Smoke Mitigation Efforts in Oregon (Informational)**

**Presenters: Michael Orman, Jennifer Horton, Gabriela Goldfarb (OHA), Nathan Beckman (ODF)**

Michael Orman, Air Quality Program Operations Manager, introduced the item and presenters for DEQ, OHA and ODF. This presentation covered ongoing smoke mitigation and wildfire resilience efforts at the local, state and federal level to address impacts from wildfire and prescribed fire smoke and the impacts to public health. The presentation focused on the effectiveness of prescribed fire as a wildfire management strategy in different forest landscapes in Oregon. Commissioner Webb made a comment on the importance of including a focus on “landscape health.” Presenters highlighted that Eastern Oregon, with its less dense forests and slower decomposition rates, benefits significantly from prescribed burning due to higher fuel buildup. In contrast, they reported that Western Oregon's denser forests present unique challenges, including higher intensity wildfires influenced by climate change.

The presentations emphasized the need for localized strategies tailored to specific areas and ongoing research to monitor the outcomes of prescribed fire projects. Presenters provided the commission with an update on the prescribed burn pilot conducted in West Bend in the spring of 2024. The inter-agency pilot was performed to gain a better understanding of how to increase the pace and scale of prescribed burning near communities and in the unique Bend airshed, while reducing smoke impacts and protecting public health. Commissioner Moynahan raised the issue of residents burning waste piles and asked about impacts for airsheds. In response, Orman talked about DEQ’s outdoor burning program.

Concerns were raised about the ability of agencies to conduct large burns in the future without adequate

support and collaboration from local communities and partners. Overall, the presentation stressed the importance of adapting wildfire management practices based on regional differences while maintaining a focus on long-term monitoring and learning from past experiences.

The presentation also included an update on the smoke management program for prescribed fire smoke and recent changes to the permit requirements for air curtain incinerators, with the goal of increasing access to this technology.

Chair Donegan made clarifying remarks and Director Feldon addressed commissioners' comments and concerns around this topic.

## **Break**

At 10:31 a.m., the commission took a short break. Chair Donegan reconvened the meeting at 10:57 a.m.

## **Item I: Vehicle Inspection Program Updates 2024 (Action)**

**Presenters: Wade Sadler, Brett Schneider, Graham Bates**

Wade Sadler, Vehicle Inspection Program Manager, introduced the item and provided an overview of the presentation on the proposed rule changes regarding the Vehicle Inspection Program. Brett Schneider, VIP Operations and Policy Analyst, presented background on inspection requirements, certifications and exemptions. Graham Bates, VIP Operations and Policy Analyst, provided details on the proposed rule revisions to update the reciprocity provisions for vehicles that are temporarily operating less than 150 miles outside of the Oregon border, clarifying testing exemptions for new vehicle models, and codifying the remote on-board diagnostic test method. Schneider reviewed the fiscal and economic assessment of the proposed rules.

Commissioner Schlusser asked about reciprocity and duration of the exemptions which led to a discussion around the rules regarding exemptions for vehicle emissions testing, which are valid for 180 days, coinciding with the Clean Air Certificate duration. The discussion covered specific details about testing exemptions, for example, if individuals, such as military personnel stationed away, after a period of time, they must reapply for a new exemption and test within 30 days upon returning. Staff also clarified that proposed amendments to the Oregon Administrative Rules will be recommended for adoption to clarify processes and reduce burdens on customers while enhancing enforcement capabilities.

**Action:** Move that the Environmental Quality Commission adopt the proposed rules and rule amendments in Attachment A as part of Chapter 340 of the Oregon Administrative Rules; and approve incorporating the 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 Mark Webb

**Second:** Commissioner Amy Schlusser

The commission approved the motion unanimously. Chair Matt Donegan, Commissioner Karen Moynahan, Commissioner Amy Schlusser and Commissioner Mark Webb in favor.

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

**Presenter: Matt Davis**

Matt Davis, Policy and External Affairs Manager, presented DEQ's annual rulemaking plan and proposed a package of specific one-time rulemakings to be delegated to the Director for final approval in the calendar year 2025. The package includes the Air Quality Fees 2025 and Water Quality Fees 2025 rulemakings.

**Action:** Move that the Oregon Environmental Quality Commission delegate the following 2025 rulemaking (described in Attachment A to Agenda Item J) to DEQ Director Feldon for a decision:

- Air Quality Fees 2025
- Water Quality Fees 2025

**Move:** Commissioner Karen Moynahan

**Second:** Commissioner Amy Schlusser

The commission approved the motion unanimously. Chair Matt Donegan, Commissioner Karen Moynahan, Commissioner Amy Schlusser and Commissioner Mark Webb in favor.

### **Adjourn meeting**

Chair Donegan adjourned the meeting at 11:34 a.m.

### **Other resources**

- [Thursday, Jan. 9 Zoom recording](#) – passcode: 6Bw9T%rb
- [Friday, Jan. 10 Zoom recording](#) – passcode: TiwU8s0&
- [January 2025 EQC web page](#)

### **Non-discrimination statement**

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