



State of Oregon Department of Environmental Quality

# Minutes: 417<sup>th</sup> Oregon Environmental Quality Commission meeting

**Nov. 17-18, 2021: Teleconference (Zoom and telephone)**

**Wednesday, November 17: 9 a.m. to 4:15 p.m.**

- **Present:** Chair Kathleen George, Vice-chair Sam Baraso and Commissioner Molly Kile

*Welcome and meeting open: Chair George convened the meeting at 9:05 a.m.*

## **Briefing: Private Forests Accord**

Director Whitman provided a briefing to the commission on the recently-completed Private Forests Accord. Jennifer Wigal, Water Quality Division Deputy Administrator, summarized elements of the agreement and provided clarification for commissioner questions.

## **A. Joint meeting with the Board of Forestry: Water Quality Memorandum of Understanding**

State Forester Cal Mukumoto and DEQ Director Richard Whitman introduced this item. Jennifer Wigal, DEQ Water Quality Division Deputy Administrator, outlined next steps for the memorandum and described the development process and public engagement done to-date. Wigal described comments received on the proposed draft memorandum, and changes made in response to comments and discussion at the Board of Forestry and EQC. Kyle Abraham, Acting Deputy State Forester, provided his thanks to the many agency staff who worked on the MOU development and described substantive revisions to the memorandum since its last version.

Chair George provided summary remarks on the process and noted her appreciation for former Commissioner Wade Mosby, who served as the EQC liaison to Forestry for many years and worked significantly on the memorandum updates during his tenure on the commission. Commissioners and Board of Forestry members asked clarifying and informational questions about the final MOU and provided feedback to the agencies regarding next steps. Director Whitman emphasized the continued importance of the EQC-BOF liaison relationship going forward.

*Break: The commission recessed from 10:14 to 11:05 a.m.*

## **Executive session and working lunch**

The commission met from 11:05 to 11:39 a.m. for an executive session over a working lunch. The executive session was held pursuant to ORS 192.660(2)(f) and (h), and was a closed meeting.

**Break:** The commission recessed from 11:39 a.m. to 12:15 p.m. Chair George reconvened the public meeting at 12:16 p.m.

**B. Action: Meeting minutes**

The commissioners reviewed the draft minutes from the Sept. 30-Oct. 1, 2021, regular EQC meeting and Oct. 18, 2021, special meeting minutes.

**Action:** Approve the minutes of the Sept. 30-Oct. 1, 2021, regular EQC meeting and Oct. 18, 2021, special EQC meeting as presented.

**Move:** Commissioner Kile

**Second:** Vice-chair Baraso

*The commission unanimously approved the action as presented.*

**C. Action: Oregon Clean Trucks rules**

Ali Mirzakhilili, Air Quality Division Administrator, introduced the item and provided an overview of the DEQ proposal. Eric Feeley, Air Quality Division Planner, provided background information about diesel pollution, which the proposed rules would reduce across a variety of truck classifications and categories. Feeley discussed the proposal's objectives, and the relationship between the specific proposal and the agency's overall strategy for diesel pollution and greenhouse gas emission reductions.

Rachel Sakata, Air Quality Division Planner, discussed additional elements of the rule proposal. Feeley noted that the proposed rules include an addendum due to recent federal court rulings related to certain types of tractor-trailers. Sakata and Feeley summarized the engagement and public comment process and discussed agency responses and revisions made due to public review and input. Commissioners asked clarifying and informational questions throughout the presentation.

**Action:** Adopt the proposed rules in pages 66 through 107 of the report for this item along with changes as shown in Addendum A for this item as part of Chapter 340, Divisions 12, 257, and 261 of the Oregon Administrative Rules.

**Move:** Commissioner Kile

**Second:** Vice-chair Baraso

*The commission unanimously approved the action as presented.*

**D. Action: Cleaner Air Oregon toxics rules alignment**

Ali Mirzakhilili, Air Quality Division Administrator, introduced the item and provided summary information about the agency's air toxics work. Gabriela Goldfarb, Oregon Health Authority Environmental Health Section Manager, provided remarks about the strong partnership between DEQ and OHA for this program.

Keith Johnson, Cleaner Air Oregon Program Manager, described the need for the proposed rulemaking. He also summarized key program actions to-date and described the implementation processes of Cleaner Air Oregon.

Meenakshi Rao, Air Quality Division Analyst, described details of the proposed rules and the agency reasoning for the proposals. Holly Dixon, OHA Public Health Division Toxicologist, described additional program updates proposed in the rule package. J.R. Giska, Cleaner Air Oregon Program Engineer, described several key program elements proposed for updates to help clarify the program implementation processes.

Johnson described the proposal's fiscal impact, key public comments received by DEQ and a summary of the discussions with the CAO Rulemaking Advisory Committee. He noted changes that DEQ is proposing to the final rules based on those discussions and public engagement.

Commissioner Kile recommended that DEQ revise the Air Toxics Science Advisory Committee review schedule from every three years to every five years, to better reflect the pace of the data associated with these reviews, and staff noted this recommendation for consideration. Commissioners asked clarifying and informational questions throughout the presentation.

**Action:** Adopt the proposed rules in Attachments A1 through A4 of the report for this item along with the changes as shown in Addendum A for this item as part of Chapter 340 of the Oregon Administrative Rules.

**Move:** Commissioner Kile

**Second:** Vice-chair Baraso

*The commission unanimously approved the action as presented.*

Following commission action, DEQ committed to provide an update to the commission in approximately one year to assess how the program changes have improved implementation of Cleaner Air Oregon.

#### **E. Action: Oregon Clean Vehicles Rebate Program temporary rulemaking**

Ali Mirzakhaili, Air Quality Division Administrator, introduced the item and provided background information on the state's electric vehicle programs. Rachel Sakata, Air Quality Planner and Clean Vehicles Rebate Program Manager, described the goals of the agency's electric vehicle rebate program. She noted legislative updates to the program, made in the 2021 Legislative Session, and explained that the proposed temporary rules would align program operations with the legislative changes in time for the Jan. 1, 2022, effective date of legislation.

Sakata described the proposed temporary rules revisions and commissioners asked clarifying and informational questions.

- **Action:** Determine that failure to act promptly would result in serious prejudice to the public interest or the interests of the parties concerned as provided under the Justification section of the staff report for this item, and adopt temporary rule amendments as shown in Attachment A of the report for this item as part of Chapter 340 of the Oregon Administrative Rules to be effective beginning Jan. 1, 2022.

**Move:** Vice-chair Baraso

**Second:** Commissioner Kile

*The commission unanimously approved the action as presented.*

**Break:** *The commission recessed from 2:35 to 2:45 p.m.*

#### **F. Action: Hazardous Waste federal alignment rulemaking**

Lydia Emer, Land Quality Division Administrator, introduced this item and provided background information on DEQ's Hazardous Waste Program. Emer noted her appreciation for the many staff who have worked on this proposed update and rule revisions.

Killian Condon, Western Region Hazardous Waste staff, described the proposed rule updates and specified which were federal adoptions by reference and which were Oregon-specific conditions. Condon described the advisory committee and public engagement processes DEQ used for the rule proposal development.

**Action:** Adopt the proposed rule amendments seen on pages 67 through 92 of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules.

**Move:** Vice-chair Baraso

**Second:** Commissioner Kile

*The commission unanimously approved the action as presented.*

#### **G. Public forum**

Chair George opened public forum, an opportunity for general public comment, at 3:20 p.m. Fifteen people presented comment on environmental and public health concerns. Their names, affiliations if given, and general summary of comments are noted below.

1. Michelle Palacios, Oregon Hop Growers Associated, commented on concerns regarding potential cost increases for natural gas under the proposed Climate Protection Program design.
2. Samantha Krop, Forest Waters Coalition, commented on water quality and source water protection issues in coastal watersheds along forested lands.
3. Dr. Betsy Herbert, North Coast Communities for Water, commented on drinking water source protection concerns for Rockaway and Jetty Creek.
4. Jone Van Reese, Brooklyn Action Core, requested that transit fleets be added to the Clean Trucks regulations.

5. Dale Feik, Washington County Action Network, commented generally on Cleaner Air Oregon and items included in the Director's report materials.
6. Nancy Harrison commented in agreement with prior concerns regarding turbidity in watersheds with active logging and requested stronger water quality protections against industrial logging activities.
7. Nancy Webster, Rockaway Beach resident, commented on drinking water protections in coastal forest lands.
8. Dr. Catherine Thomasson, Democratic Party of Oregon Environmental Caucus Chair, commented on general water quality and quantity concerns.
9. Cory Watson, Green Wrench Heavy Equipment, expressed concerns about limitations imposed by the Clean Trucks rules and general vehicle emission concerns.
10. Gregory Sotir, Cully Air Action Team, commented on weaknesses within the proposed Climate Protection Program design.
11. Tim Miller, Oregon Business for Climate, commented in support of climate-related actions taken by the commission and an ongoing need for urgent action around climate change.
12. Paula Thonney, Mohawk Valley resident, commented on the negative effects of post-fire logging near Mohawk River and concerns about aerial pesticide spraying.
13. Nate Stokes, union member and engineer, commented regarding natural gas emissions and regulations.
14. Katy Eymann, Bandon resident, commented on the importance of clean water and need to strengthen the Forest Practices Act to protect drinking water sources.
15. Bill Bradbury, Bandon resident and former Oregon Secretary of State, provided comments in support of Eymann's testimony for protecting water supplies near forested and logged lands.

***Recess:*** Chair George recessed the commission at approximately 4:15 p.m. until 9 a.m. on Thursday, Nov. 18, 2021.

## **Thursday, November 18: 9 a.m. to 12:45 p.m.**

- **Present:** Chair Kathleen George, Vice-chair Sam Baraso and Commissioner Molly Kile
  - Commissioners Greg Addington and Amy Schlusser joined the meeting after Item H

***Welcome and meeting open:*** Chair George reconvened the meeting at 9:04 a.m.

### **H. Action: LRAPA rulemakings**

Ali Mirzakhilili, Air Quality Division Administrator, introduced the item and provided background on the proposal. Steve Dietrich, LRAPA Executive Director, described the work of LRAPA, generally, and the air quality improvements accomplished in Oakridge and West Fir communities. Director Dietrich described the advisory committee and public engagement processes for the proposed rules, which were adopted by LRAPA this fall. Commissioners noted their appreciation for LRAPA's work and the community commitment to bring the Oakridge and West Fir airsheds into attainment of standards.

**Action:**

- Approve the rule revisions seen in Attachments B and C of this item to:
  - Redesignate the Oakridge-Westfir airshed as attainment for the national air quality health standards for fine particles (PM2.5); and include a 10-year maintenance plan to keep air quality within the PM2.5 health standards, and
  - Redesignate the Oakridge airshed as attainment for the 24-hour national ambient air quality standards (NAAQS) for coarse inhalable particles (PM10); and include a 10-year maintenance plan to keep air quality within the PM10 health standards.
- 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 Oakridge-Westfir PM2.5 Redesignation Request and Maintenance Plan and the Oakridge PM10 Redesignation Request and Maintenance Plan, the City of Oakridge Ordinance No. 920 and Lane County Code 9.120-150 to the U.S. Environmental Protection Agency for approval.

**Move:** Vice-chair Baraso

**Second:** Commissioner Kile

*The commission unanimously approved the action as presented.*

**New commissioners: Greg Addington and Amy Schlusser**

Director Whitman introduced Greg Addington and Amy Schlusser, two new EQC commissioners confirmed by the Oregon Senate on November 17. Commissioners Addington and Schlusser introduced themselves and provided brief remarks.

**I. Informational: Clean Fuels Program updates**

Colin McConnaha, Office of Greenhouse Gas Programs Manager, introduced the item and discussed the connection among the Clean Fuels Program and other climate change and emissions-reduction programs at DEQ. Cory-Ann Wind, Clean Fuels Program Manager, described program status and items under development for update and rules revisions in 2022. Commissioners asked clarifying and informational questions throughout the presentation.

**J. Informational: Climate Protection Program rulemaking**

Colin McConnaha, Office of Greenhouse Gas Programs Manager, introduced the item and noted the structure of the informational presentation. He described the development and public engagement timelines, and provided an outline of the proposed program's scope. Nicole Singh, Climate Change Policy Senior Advisor, discussed additional detail on the program's purposes and objectives, including clarification on which entities would be regulated and the compliance timelines for these entities. Singh described the Community Climate Investment instruments proposed as part of the program. She summarized key themes of discussion with the Rules Advisory Committee and input received to-date from engagement and public comment opportunities.

Commissioners asked clarifying and informational questions throughout the presentation and provided feedback on the draft elements of the Climate Protection Program.

**Break:** *The commission recessed from 11:50 a.m. to noon*

#### **K. Informational: Director's report**

Director Whitman provided updates on items of interest to the commission and agency. He recognized several staff for the recent closure of a \$77 million settlement for the cleanup of the Armstrong/Scappoose Bay site near Astoria: Gary Vrooman (Oregon Department of Justice), Nina DeConcini (DEQ Northwest Region), Kevin Parrett (DEQ Northwest Region), Sarah Greenfield (DEQ Northwest Region) and Madi Novak (formerly DEQ Northwest Region and now with EPA).

Other items included:

- A new Diversity, Equity and Inclusion Council, to be led by the incoming DEI Coordinator
- Ongoing remote and hybrid-remote work for agency staff, with potential office reopening Jan. 1, 2022, per Governor Brown's current directives
- EPA's announcement for new rules to define Waters of the United States
- Jordan Cove LNG project updates
- Staff changes, with Shannon Davis becoming Eastern Region Division Administrator and the retirement of Lauri Aunan
- Onsite septic system program and funding updates

#### **L. Informational: Commissioner reports**

Commissioners provided verbal updates on their recent activities of interest to the commission and DEQ. Chair George noted that the commission will discuss the liaison role opportunities at an upcoming meeting.

Following commissioner reports, Director Whitman asked the commissioners about their general availability on December 16 for a special meeting specific to the Climate Protection Program rule proposals. Commissioners affirmed their availability and noted that a time will be scheduled by EQC staff over email.

**Adjourn:** *Chair George adjourned the meeting at 12:41 p.m.*

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State of Oregon Department of Environmental Quality

# Minutes: Oregon Environmental Quality Commission special meeting

**Dec. 16, 2021: Teleconference (Zoom and telephone)**

**Thursday, December 16: 9 a.m. to 1 p.m.**

- **Present:** Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Amy Schlusser

## **Welcome and meeting open**

Chair George convened the meeting at 9:03 a.m.

## **A. Action: Climate Protection Program rule proposal**

Director Whitman introduced this item and provided opening remarks. Colin McConnaha, Office of Greenhouse Gas Programs Manager, provided an overview of the presentation's structure and summarized the development and rulemaking processes. Nicole Singh, Senior Climate Change Advisor, described key themes reflected in the public comments received by DEQ throughout the development process and specific to the proposed draft rules.

Singh summarized the proposed rules, noting that the proposal is to establish a new rule division specific to the proposed Oregon Climate Protection Program. McConnaha described several hypothetical examples of fictitious facilities and sources to demonstrate potential implementation scenarios for the program. Director Whitman described the ways the proposed Climate Protection Plan connects to and complements other DEQ and state programs for emissions reductions.

The commissioners asked clarifying and informational questions throughout the presentation and provided summary comments regarding the program and more broad reflections on climate change. Commissioner Addington requested more consideration of the exclusion of carbon sequestration in the Community Climate Investments portion of the program. Commissioners discussed ways to reflect this consideration and noted their interest in follow-up discussions specific to carbon sequestration as a mechanism for emissions reductions.

Paul Garrahan, Oregon Department of Justice, read into the record a proposed Amendment 1, regarding revised wording of OAR 340-271-8100(4).

**Action:** Adopt the proposed rules in Attachment A1 along with changes as shown in Addendum A and revisions in Amendment 1, as discussed at the meeting, and Attachment A3 as part of Chapter 340 of the Oregon Administrative Rules.



**Move:** Commissioner Schlusser

**Second:** Vice-chair Baraso

*The commission approved the action with three in support (Baraso, Kile, Schlusser) and one in opposition (Addington).*

- *Note: Chair George did not vote in this matter, consistent with practices for the chair to not vote other than to break a tie or in circumstances where the commission would not otherwise have quorum for an action.*

Following the commission's vote, Director Whitman noted that he will coordinate with the Oregon Global Warming Commission to schedule a follow-up informational item presented jointly to that body and EQC on carbon sequestration and will provide regular director's report updates on the program's implementation.

### **Adjourn**

Chair George adjourned the special meeting at 1:18 p.m.

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