



State of Oregon Department of Environmental Quality

# Notes: Oregon Environmental Quality Commission meeting

## 422<sup>nd</sup> regular meeting: Sept. 22-23, 2022

Draft   x    
Approved as presented \_\_\_\_\_  
Approved with amendments \_\_\_\_\_

### Thursday, September 22: 12 to 3:30 p.m.

- Present: Chair Kathleen George, Commissioner Greg Addington, Commissioner Molly Kile (by Zoom) and Commissioner Amy Schlusser
  - *Vice-chair Sam Baraso did not attend the Sept. 22, 2022, meeting, in an excused absence*

#### **Welcome and meeting open**

Chair George convened the meeting and reviewed the day's agenda.

#### **A. Action: Draft meeting minutes**

The commissioners reviewed the proposed draft minutes from the July 21-22 regular meeting and August 24 special meeting.

**Action:** Approve the July 21-22, 2022, regular and Aug. 24, 2022, special meeting minutes as presented.

**Move:** Commissioner Addington

**Second:** Commissioner Kile

*The commission unanimously approved the minutes as presented*

#### **B. Informational: Director's recruitment process updates**

Nancy Bennett, Policy and External Affairs Manager, provided a summary of the timeline and process updates about the recruitment for the DEQ Director position. Chair George and Commissioner Kile provided additional context, as the two designees for commission engagement in the recruitment process. Commissioners discussed the timeline and potential next steps, and encouraged people to share the recruitment information broadly with their networks.

#### **C. Informational: Air Quality Permitting Program rules updates**

Ali Mirzakhilili, Air Quality Division Administrator, introduced the item, provided a brief overview of the Air Quality Permitting Program and the rulemaking's intended goals and introduced the co-presenters: Tim Wollerman, Interim Air Quality Manager, and Jill Inahara, Senior Air Quality Engineer. Inahara described the permitting program in more detail, the ways the draft rules would improve the program, including strengthening the agency's

responsiveness to environmental justice concerns related to air permitting, and summarized the proposed rule changes. Acting Director Feldon provided additional context for the rule development.

Commissioners discussed the materials and asked clarifying and informational questions throughout the presentation.

*Commissioner Kile left the meeting after Item C, in an excused absence for the remainder of the day.*

#### **D. Informational: Recycling Modernization Act updates**

Shannon Davis, Eastern Region Division Administrator and former Materials Management Manager, introduced this item and provided contextual background for the presentation. Cheryl Grabham, Product Stewardship Team Manager, described the issues addressed by the 2021 Recycling Modernization Act, and the ways that DEQ will respond with program and rule development in 2023 and beyond. Roxann Nayar, Recycling Program Analyst, described the Act in detail, and provided an overview of the ways the commission would be engaged on recycling issues in the next several years. Grabham and Nayar outlined the next steps for the program, and commissioners asked clarifying and informational questions about the recycling systems work and programs.

#### **E. Public forum**

The commission opened a comment opportunity for any environmental and public health issues relevant to DEQ and EQC. People were able to provide comment in-person or by Zoom, and 25 people presented comment. A summary of their comments, including their name and affiliations as presented, is noted below.

1. Rebecca McCroskey, Willamette Riverkeeper volunteer, presented concerns about trash in the Willamette River and a need for stronger regulatory actions to protect the river.
2. Jeff Bissonette, Northwest Energy Coalition, presented support for the Advanced Clean Cars II rules currently under development.
3. Eric Miller, affiliated with several entities, presented support for the Advanced Clean Cars II rules under development.
4. Dr. Pat Delaquil, Metro Climate Action Team, presented support for the Advanced Clean Cars II rules under development.
5. Debra Higbee-Sudyke, Oregon Chapter of the Sierra Club, presented support for the Advanced Clean Cars II rules under development.
6. Stu Green, Forth, presented support for the Advanced Clean Cars II rules under development.

7. Lise Colgan, Oregon Chapter of Elders Climate Action, presented support for the Advanced Clean Cars II rules under development.
8. Walter Reiter, EPS Industry Alliance, presented comments regarding extended producer responsibility and recycling system updates.
9. Rob Kugler, Metro Climate Action Team, presented support for the Advanced Clean Cars II rules under development.
10. Jacqui Treiger, Oregon Environmental Council, presented support for the Advanced Clean Cars II rules under development.
11. Chuck Shulock, Natural Resources Defense Council, presented support for the Advanced Clean Cars II rules under development.
12. Victoria Paykar, Climate Solutions, presented support for the Advanced Clean Cars II rules under development.
13. Alan Journet, Southern Oregon Climate Action Now, presented support for the Advanced Clean Cars II rules under development.
14. Michelle Emmons, Willamette Riverkeeper staff, presented concerns about trash in the Willamette River and a need for stronger regulatory actions to protect the river.
15. Lukas Kubeja presented support for the Advanced Clean Cars II rules under development.
16. Bill Harris, Portland resident, presented support for the Advanced Clean Cars II rules under development.
17. Mark Quade, Portland resident, presented support for the Advanced Clean Cars II rules under development.
18. Kathy Holston, Oakridge resident and Willamette Riverkeeper volunteer, presented concerns about trash in the Willamette River and a need for stronger regulatory actions to protect the river.
19. Akash Singh, Union of Concerned Scientists, presented support for the Advanced Clean Cars II rules under development.
20. Stuart Liebowitz, Douglas County Global Warming Coalition, presented support for the Advanced Clean Cars II rules under development.
21. Sarah Sachs, Ceres, presented support for the Advanced Clean Cars II rules under development.
22. Catherine Thomasson, Oregon Democratic Party Environmental Caucus, presented support for the Advanced Clean Cars II rules under development.
23. Kerry Nisson, American Lung Association, presented support for the Advanced Clean Cars II rules under development.
24. Travis Williams, Willamette Riverkeeper, presented concerns about trash in the Willamette River and a need for stronger regulatory actions to protect the river. He noted that the agency has declined a petition-based request for new regulations for these river issues, but would appreciate engagement with DEQ and the commission on these matters.

25. Bob Yuhnke, Elders Climate Action, presented support for the Advanced Clean Cars II rules under development.

**Recess:** Chair George recessed the meeting at 3:29 p.m. until 9 a.m. on Friday, Sept. 23, 2022. Commissioners and some DEQ staff attended a site visit of SeQuential Biofuels, in Salem, from 3:30 to 5 p.m., followed by an optional, self-pay social dinner. No commission business was held during the tour or dinner.

\*\*\*

### **Friday, September 23: 9 a.m. to 12:45 p.m.**

- Present: Chair Kathleen George, Vice-chair Sam Baraso (joined via Zoom at approximately 10:20 a.m., prior to Item G), Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Amy Schlusser

#### **Meeting open and welcome**

Chair George reconvened the meeting at 9:10 a.m. and commissioners reviewed the day's agenda.

#### **1. Action: Appointment of Interim DEQ Director**

Chair George introduced this item and noted that Richard Whitman advanced his retirement date to September 30, and the commission has the authority to appoint an interim director to serve from that date of resignation until the commission completes its recruitment, currently in process, for the next permanent DEQ Director.

Gary Vrooman, EQC legal counsel, outlined the commission's authority and options for action. Commissioners discussed potential candidates to serve as Interim Director, and Commissioner Kile asked Acting Director Leah Feldon for her acceptance of a nomination to the role. Acting Director Feldon accepted the nomination, which was supported by the full commission.

**Action:** Appoint Leah Feldon as Interim DEQ Director, the appointment to begin Sept. 30, 2022, and end upon the appointment of a permanent DEQ Director.

**Move:** Commissioner Kile

**Second:** Commissioner Addington

*The commission unanimously approved the action as presented.*

#### **F. Action: Petition to designate Metolius River an Outstanding Resource Water**

Jennifer Wigal, Water Quality Division Administrator, introduced this item. Connie Dou, Water Quality Standards and Assessment Manager, provided an overview of the petition and provided background on Outstanding Resource Water designations. Aron Borok, Water Quality

Standards Program staff, described the petition’s requests and provided an overview of the content of the petition. Borok summarized the petition process and requirements for rulemaking petitions for Outstanding Resource Water designations and outlined the commission’s options for action.

Borok and Dou described the agency’s analysis of the petition and its proposed rules, summarized comments received and provided DEQ’s recommendation for denial of the petition. Commissioners asked clarifying and informational questions about the petition. Staff provided responses to commissioner questions and provided additional context for the established processes to revise water quality standards through the Triennial Review process and other agency activities.

**Action:** Deny the petition on the rule amendments proposed by the Friends of the Metolius and co-petitioner Northwest Environmental Defense Center on June 27, 2022.

**Move:** Commissioner Kile

**Second:** Commissioner Addington

*The commission unanimously approved the action as presented.*

Following the commission vote, Chair George invited the petitioners to present comment. Doug Hancock, Friends of the Metolius, noted his appreciation for the commission’s time and expressed the continued position of the organization that the Metolius River requires more and better protections. He asked that future petitioning processes include more opportunities for engagement between DEQ and the petitioning entities, and that DEQ provide more clarity to external entities on petitioning processes to meet the shared goals of protection of Oregon’s waters.

*Vice-chair Baraso joined the meeting via Zoom prior to Item G.*

**G. Action: Clean Fuels Program rulemaking**

Colin McConnaha, Office of Greenhouse Gas Programs Manager, introduced the item and provided an overview of the Clean Fuels Program. He noted appreciation for the Clean Fuels Program team who developed the proposed rules and participate in the daily operations of the program. Cory-Ann Wind, Clean Fuels Program Manager, described the rule proposal to expand the Clean Fuels Program’s carbon intensity reduction requirements from 10 percent to a 37 percent reduction in average carbon intensity by 2025. Wind described the rulemaking development process, summarized public comment received throughout the process and described key considerations throughout the rule update process.

McConnaha and Wind discussed the scenarios used in evaluation of the proposed rule revisions, and commissioners asked clarifying and informational questions throughout the

presentation. McConnaha described the specific statutory requirements the commission must consider when making changes to the Oregon Clean Fuels Program.

Commissioners discussed the presentation and asked additional clarifying and informational questions. Commissioner Schlusser asked for a potential revised motion to adopt a higher percentage of reductions by 2025; however, following commission discussion the revised motion was not finalized or presented for commission vote. Gary Vrooman, EQC legal counsel, provided clarifying amendments to the motion language pursuant to the effective dates of the motion.

**Action:** With consideration of the factors described in ORS 468A.266(3) and (5), and consistent with the staff report recommendation, adopt the proposed rule amendments in Attachment A of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules with the amendments to the rules in Division 12 and OAR 340-253-0680 effective upon adoption, and the remaining amendments to the rules in Division 253 having an effective date of Jan. 1, 2023.

**Move:** Commissioner Kile

**Second:** Commissioner Schlusser

*The commission unanimously approved the action as presented.*

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

Acting Director Feldon, with co-presentations by several Division Administrators, provided verbal summaries of some items from the written report for this item. In addition to the report entries, Acting Director Feldon recognized the service and pending retirement of Nina DeConcini, Northwest Region Administrator, and the commissioners provided their thanks and well-wishes to DeConcini.

#### **I. Informational: Commissioner reports**

Commissioners provided verbal updates on their recent activities of interest to DEQ and the commission.

#### **Adjourn**

Chair George adjourned the meeting at 1:25 p.m. A previously scheduled executive session was cancelled.

\*\*\*



State of Oregon Department of Environmental Quality

# Notes: Oregon Environmental Quality

## Commission meeting

Special meeting: Nov. 9, 2022

### Wednesday, November 9: 8:30-9:30 a.m.

- Present: Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Greg Addington and Commissioner Amy Schlusser.
  - *The meeting was held on Zoom, and all people attended via the Zoom web and telephone interface*

### **Welcome and meeting open**

Chair George convened the meeting at 8:37 a.m.

### **A. Action: Petition for air emission regulations on dairy farms**

Interim Director Leah Feldon introduced the item and provided a brief overview of the administrative processes of petitioning for commission rulemaking. Michael Orman, Air Quality Planning Manager, and Heather Kuoppamaki, Senior Air Quality Engineer, described the petition, received by the commission August 17, which requested new regulations for control of air emissions at dairy cattle operations.

Orman described the general administrative process for rulemaking petitions. Kuoppamaki provided detail on dairy cattle operations, a type of confined animal feeding operation (CAFO), and the regulatory role of DEQ and the Oregon Department of Agriculture for these sites. She presented the DEQ analysis of the petition, summarized the public comment received on the petition and noted DEQ's recommendation for denial of the petition.

Interim Director Feldon described some of the current work DEQ is doing related to dairy CAFOs. Commissioners asked clarifying and informational questions about the petition and presentation, and noted their concerns for the environmental and public health effects of dairy cattle operations in Oregon.

Prior to the vote, Commissioner Addington noted that he has recently been employed by the Oregon Farm Bureau and consulted with the commission's legal counsel regarding real or potential conflicts of interest for this petition. He reported no actual conflicts of interest and acknowledged potential perception of a conflict, but would vote on the matter.

**Action:** Deny the petition in writing on new rules proposed by the Food & Water Watch and co-petitioners on Aug. 17, 2022.

**Move:** Commissioner Kile

**Second:** Vice-chair Baraso

*The commission unanimously approved the motion as presented*

Following the commission action, Emily Miller, Food and Water Watch, provided comments on behalf of the petitioners. Miller requested action by the commission and DEQ to implement regulations to protect Oregon's environment and public health.

Interim Director Feldon affirmed DEQ's commitment to provide a follow-up to the commission in approximately one year to address CAFOs, of all types, and DEQ's role for regulatory oversight of water, air and land-related issues associated with those types of sources. Interim Director Feldon noted that DEQ is also working to schedule a joint meeting with the Board of Agriculture in early 2023, which will provide additional opportunity for discussion of these issues, including resource needs and regulatory responsibilities and overlaps between DEQ and the Department of Agriculture.

**Adjourn:** Chair George adjourned the meeting at 9:41 a.m.

\*\*\*