



Minutes: Oregon Environmental Quality Commission meeting

406th regular meeting

Nov. 14 and 15, 2019

Portland (multiple locations)

Thursday: Doubletree Meeting Center, Broadway Room; 1000 NE Multnomah St.

Friday: DEQ Portland office, 3rd floor conference room; 700 NE Multnomah St.

Thursday, Nov. 14, 2019: 8:30 a.m. to 5:30 p.m.

Portland Doubletree meeting center (1000 NE Multnomah Street); off-site tour (Bonneville Dam)

- Commissioners present: Chair Kathleen George (starting at 8:50 a.m.), Vice-chair Sam Baraso, Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Wade Mosby

Meeting open and welcome

Vice Chair Baraso convened the meeting at 8:35 a.m. for an agenda review and introduction to the day.

A. Action: Minutes review and approval

The commission reviewed the draft meeting minutes from the Sept. 26-27, 2019, EQC regular meeting.

Action: Approve the Sept. 26-27, 2019, EQC meeting minutes as presented

Move: Commissioner Kile

Second: Commissioner Addington

The commission unanimously approved the action. Chair George was not present for this action item.

B. Informational: Budget and legislative updates

Nancy Bennett, Office of Policy and Analysis, introduced the item. Annalisa Bhatia, Senior Legislative Analyst, described the process and expected agency issues and activities during the 2020 Oregon Legislative Session.

Bennett described the agency's budget and policy development timeline, related to the 2021 Legislative Session. Bennett noted that DEQ intends to host public engagement meetings, in a town hall style, as part of the next development cycle. Bhatia described additional details on the policy development process for the agency and state.

C. Informational: Oregon’s Environmental Protection Act

Annalisa Bhatia, Senior Legislative Analyst, introduced the item and noted that the process will become official in 2020. She noted that the presentation is an opportunity for the commissioners to provide feedback on the agency’s report format, the level of detail in an example report and other elements of this new activity.

Commissioners offered feedback on the reports, and asked clarifying and informational questions about the report process and its content. Director Whitman and Bhatia provided additional detail on state and national environmental issues, and responded to the commissioners’ questions.

D. Informational: Director’s report

Director Whitman presented written and verbal updates on agency activities and other issues of interest to the commission. Commissioners asked clarifying and informational questions throughout the item, and discussed the report’s contents.

E. Action: Authorization for court filing

Kieran O’Donnell, Office of Compliance and Enforcement manager, introduced this item. Tim Smith, Oregon Department of Justice, attended for any clarifying legal questions from the commissioners.

O’Donnell described the agency’s request for authorization to include solid waste-related elements in legal complaint paperwork to be filed in Multnomah County for environmental violations at NW Metals, in northeast Portland.

Action: Authorize DEQ to include solid waste claims under ORS 459 in a complaint for the enforcement of environmental statutes, to be filed against NW Metals Inc. in Multnomah County Circuit Court.

Move: Vice-chair Baraso

Second: Commissioner Mosby

The commission unanimously approved the action.

F. Public forum

At 11 a.m., Chair George opened an opportunity for general public comment on environmental issues and concerns. People were asked to limit their comments to three minutes or less, and people were able to comment by phone or in-person at the meeting in Portland. Eighteen people provided comments to the commission, as summarized below

1. Dan Serres – Opposition to the Jordan Cove liquefied natural gas pipeline and project
2. Damon Matsory – Concerns regarding Covanta, a waste disposal site in Marion County
3. Dr. Theodora Tsongas – Concerns regarding Zenith Energy gas terminals in Portland
4. Toma Devers – Additional opposition and concerns about the Jordan Cove project
5. Dale Feik – Comments regarding trust and the public good

6. Trish Webber – Concerns regarding tar sands and bitumen extraction and transport – *two handouts submitted to the commission*
7. Kris Allam – Additional comment opposing the extraction and transport of bitumen/tar sands and Zenith Energy projects – *one handout submitted to the commission*
8. Lynn Spitaler-Handling – Opposition to the Jordan Cove project, Zenith Energy gas terminals and the extraction/transport of tar sands
9. Elijah Cetas – Additional concerns about Zenith Energy projects
10. *Phone* - James Calfas – Concerns about herbicide uses on forested lands near Williams, Oregon – *documents submitted via U.S. mail*
11. *Phone* – Rebecca Hanson – Additional concerns regarding herbicide use in and near Williams
12. *Phone* – Sal Peralta – Questions about committee processes and recycling, including legislative updates – *sent copy of documents by email*
13. Nick Caleb – Opposition to Zenith Energy projects, concerns regarding the Land Use Compatibility process for local government facility placements/zoning compliance
14. Urean Saldana – Concerns regarding tar sands extraction and transport
15. Dineen O'Rourke – Opposition to the Jordan Cove project
16. Cathryn Chudy – Opposition to the Jordan Cove and Zenith Energy projects
17. *Phone* – Faun Parlman– Additional comments regarding aerial herbicide spray on forested lands in Williams
18. *Phone* – Cheryl Bruner – Additional comments regarding herbicide spray on forested lands in and near Williams

Working lunch and executive session

Chair George recessed the commission's public meeting at approximately noon. She noted that the commission would recess for a working lunch and executive session until 1:30 p.m., and then leave for an off-site tour of Bonneville Dam for the remainder of the afternoon. She recessed the public meeting until 8:30 a.m. on Friday, Nov. 15, 2019.

The commission met with Department of Justice staff and some DEQ staff as part of the executive session, pursuant to ORS 192.660(2)(f) and (h). Following the working lunch, the commission and some staff attended an off-site tour of Bonneville Dam. On Thursday evening, some agency staff attended an optional, self-pay social dinner with commission members. No business was conducted at dinner.

Friday, Nov. 15, 2019: 8:30 a.m. to 3 p.m.

DEQ Portland office, 3rd floor conference room (700 NE Multnomah Street, Portland)

- Commissioners present: Chair Kathleen George, Vice-chair Sam Baraso, Commissioner Greg Addington, Commissioner Molly Kile and Commissioner Wade Mosby

Meeting open and welcome

Chair George reconvened the meeting at 8:35 a.m., and reviewed the day's agenda.

H. Tour debrief

Jennifer Wigal, Water Quality Division Deputy Administrator, introduced the item. Paula Calvert, Columbia River Coordinator, discussed the collaboration among the involved entities for fish passage and operations related to the four dams operated by the U.S. Army Corps of Engineers on the lower Columbia River. Brandon Chockley, Fish Passage Center, provided additional information as part of this item.

Commissioners discussed their feedback from the tour, and asked clarifying and informational questions regarding the Total Dissolved Gas standard.

I. Informational: Total Dissolved Gas standard revisions

Gene Foster, Water Quality Watershed Management Section manager, introduced the item. Chair George provided introductory statements regarding the topic and opened the hearing for comment at 9:05 a.m. Three people presented comments, summarized below.

1. Ed Bowles, Oregon Department of Fish and Wildlife, provided comment in support of the proposal and noted that his agency will provide written comments in addition to oral testimony regarding the flexible spill agreement.
2. Miles Johnson, Columbia Riverkeeper, provided comment by phone. Johnson noted that spill is a stopgap, at best, for the survival of fish in the Columbia River, and Riverkeeper supports the modification as proposed to 125 percent.
3. Liz Hamilton, Northwest Sport Fishing Association, provided comment in support of the proposed modification. Hamilton provided documents in support of the testimony.

J. Informational: Water Quality 1200-Z permit

Justin Green, Water Quality Division Administrator, introduced the item. Christine Svetkovich, Water Quality manager, described the 1200-Z permit and the kinds of facilities that have this type of permit for stormwater discharges. Svetkovich described the elements of a 1200-Z permit and the timeline of the program, as well as the projected timeline for the permit renewal via rulemaking process.

Commissioners asked clarifying and informational questions about the permit and development process. Krista Ratliff, Senior Water Quality Permit Writer, provided additional information and clarification by phone.

K. Informational: DEQ's Emergency Response Program

Lydia Emer, Land Quality Division Administrator, introduced the item and provided general program background.

Mike Zollitsch, Emergency Response manager, described the types of spills that the programs encounters and the staffing structure for the program. He presented an overview of the partnerships of the program, including relationships with state, federal and Tribal governments.

Don Pettit, Emergency Response planner, discussed the planning processes for Emergency Response in the state and in collaboration with partner states. Pettit described the types of materials that are released in spills, and the general locations of spills across the state. Pettit described the use of a Geographic Response Plan for spills, and demonstrated the process of following this type of plan.

Geoff Brown, Western Region On-Scene Coordinator, and Jamie Collins, Eastern Region On-Scene Coordinator, described several types of spills, and the response, cleanup and current state of those spills. Zollitsch provided a summary of the financial and personnel information for the program and next steps for the agency and Emergency Response Program.

Commissioners asked clarifying and informational questions throughout the presentation and noted their support for the program and its work. Director Whitman noted his appreciation for the staff and reflected on the future needs of the agency and Emergency Response program.

L. Action: Heating Oil Tank fee rules

Lydia Emer, Land Quality Division Administrator, introduced the item and provided an overview of the proposal. Emer described the history of the Heating Oil Tanks Program and the current state of the program. Mike Korten Hof, Heating Oil Tanks Manager, described the operations of the program, and described the program's work in 2018. Korten Hof explained the types of cleanups for leaking Heating Oil Tanks, and described the proposed rule revisions and fee increases. Jessika Cohen, Tanks Program Analyst, described the development and public engagement process for the proposed rule revisions, including a fee increase.

Commissioners asked clarifying and informational questions about the proposal and Heating Oil Tank program. Korten Hof and Cohen provided responses and additional information about the proposal.

Action: Adopt the proposed rule amendments, as seen in Attachment A of the staff report for this item, as part of Chapter 340 of the Oregon Administrative Rules, Divisions 163 and 177.

Move: Vice-chair Baraso

Second: Commissioner Kile

The commission unanimously approved the action.

M. Action: Pacific Cast Technologies hazardous waste delisting

Brian Fuller, Western Region Hazardous and Solid Waste manager, introduced the item and provided background on the hazardous waste delisting process, generally, and specifically to this proposal. Fuller described the development and public engagement processes for the proposed delisting.

Dan Lobato, Hazardous Waste inspector, provided definitions and information about hazardous waste, and described the specific waste proposed for delisting. Seth Sadofsky, Hydrogeologist, explained the manufacturing process for the facility, and the resulting wastes subject to the proposal. Sadofsky provided information about the sampling process to demonstrate the resulting wastes will not pose added risk to human health and the environment, and DEQ's review of the samples. Fuller summarized the proposal and commissioners asked clarifying and informational questions throughout the presentation.

Action: 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.

Move: Commissioner Mosby

Second: Vice-chair Baraso

The commission unanimously approved the action.

N. Action: VIP fee rules

Ali Mirzakhilili, Air Quality Division Administrator, introduced the item and provided some background information about the Vehicle Inspection Program. Karen Williams, Air Quality Division planner, described the operations of VIP and the air quality benefits associated with the controls in place through VIP. Williams described the development and public engagement process for the proposed rules. Mike Skorupka, VIP Manager, described the cost effectiveness findings, as required by legislation, and summarized the methodology and content of the cost effectiveness report. Skorupka described the proposed fee increases for the program, and the related next steps if approved by the commission. Commissioners asked clarifying and informational questions throughout the presentation.

Action: Move that the Oregon Environmental Quality Commission:

- Find that, in accordance with ORS 468A.400, the Vehicle Inspection program, including the proposed 2020 fee increase, is the most cost effective program consistent with Clean Air Act requirements; and
- Adopt the proposed rules as seen on pages 33 through 85 of the staff report for this item 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 Mosby

Second: Vice-chair Baraso

The commission unanimously approved the action.

Lunch: Chair George recessed the commission for lunch from 12:35 to 1:15 p.m.

O. Informational: Status of Hazard Index rulemaking

Ali Mirzakhilili, Air Quality Division Administrator, introduced the item and noted that DEQ intends to bring the proposed rules for commission action in early 2020. Mirzakhilili explained the Hazard Index rules, and the development and public engagement process for DEQ, as part of the Cleaner Air Oregon program. Gabriela Goldfarb and Holly Dixon, Oregon Health Authority, provided additional clarifying detail on the Hazard Index rules. Commissioners asked clarifying and informational questions throughout the presentation.

P. Informational: Regional Haze Plan updates

Ali Mirzakhilili, Air Quality Division Administrator, introduced the item and provided some background information about the Regional Haze Plan. D Pei Wu, Air Quality Planner, described the Regional Haze Program, generally, and outlined the policy context for the program and Regional Haze Plan. Wu described the program activities to-date and the status of the Plan, to be presented for commission action in 2021.

The commissioners asked clarifying and informational questions throughout the presentation. Michael Orman, Air Quality Division Planning Manager, provided additional responses to some of the commissioners' questions.

Q. Informational: Commissioner reports

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

- Commissioner Mosby noted that he, along with Director Whitman and Chair George, has been meeting with Department of Forestry's director and board members.
- Commissioner Kile noted that she will be working on a domestic well water safety project, focused in Jackson County, and that work will be in collaboration with DEQ and OHA.
- Chair George noted that she met with the City of Portland regarding general concerns, including environmental issues, with other Tribal government representatives. She also noted a recent meeting with the Governor's Office and a recent personal trip crabbing in Alsea Bay.

The commissioners also discussed the proposed meeting dates and tentative locations for 2020.

- January 23-24 (Lab)
- March 18-19 (Salem) – Note: Wednesday/Thursday, to avoid the school holidays
- May 7-8 (Pendleton)
- July 16-17 (Eugene/Oakridge – Waldo Lake field visit)
- September 17-18 (South coast)
- November 19-20 (Portland/metro)

Director Whitman noted that FERC issued the Environmental Impact Statement for the Jordan Cove project today, and staff will review and provide updates to the commission.

Adjourn: Chair George adjourned the meeting at 3 p.m.

Item B 000007