



State of Oregon Department of Environmental Quality

# Oregon Environmental Quality Commission meeting

402<sup>nd</sup> regular meeting

*Jan. 24-25, 2019*

*Oregon State University, Reser Stadium, Toyota Room  
1100 SW 26<sup>th</sup> Street, Corvallis*

**Thursday, Jan. 24, 2019: 10 a.m. to 5:45 p.m.**

**Chair George convened the meeting at approximately 10 a.m.**

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

**A. Action item: Meeting minutes**

Commissioners reviewed the proposed draft minutes from the Nov. 15-16, 2018, regular meeting and Dec. 4, 2018, special meeting.

**Action:** Approve both sets of meeting minutes as presented

**Move:** Vice-chair Baraso

**Second:** Commissioner Addington

*The commission unanimously approved the action*

**B. Action item: Oregon Smoke Management Plan Updates**

Ali Mirzakhali, Air Quality Division administrator, introduced the item. Michael Orman, Air Quality Planning Section manager, introduced his co-presenters, Doug Grafe, Oregon Department of Forestry, and Kirsten Aird, Oregon Health Authority, and presented summary information regarding the proposed Smoke Management Plan updates.

Grafe presented a summary of the plan's review process to-date. Orman described the policy options and recommendations from DEQ for commission consideration. Aird described the health concerns associated with smoke and exposure to fine particulate matter found in smoke. Grafe described the best practices included in the Plan and staff recommendations, including communication plans and a proposed exemption process for communities.

Commissioners asked clarifying and informational questions throughout the presentation and discussed many elements of the rule proposals. Director Whitman provided some additional clarifications in response to commissioner questions and discussion, as did Nick Yonker, Oregon Department of Forestry.

**Action:** Incorporate the rule amendments as seen on pages 27 through 60 of the staff report for this item into the Oregon Clean Air Act State Implementation Plan under OAR 340-200-0040, making the change of date as seen on page 26 of the staff report for this item, and direct DEQ to submit the SIP revision to the U.S. Environmental Protection Agency for approval; and report back to the commission in 15 months on the outcomes of the plan and prescribed burn activities in 2019

**Move:** Commissioner Mosby

**Second:** Commissioner Addington

*The commission unanimously approved the action*

#### **C. Action item: Greenhouse Gas Reporting Program proposed rules**

Ali Mirzakhilili, Air Quality Division administrator, introduced the rule and summarized the agency process to develop the proposed rules. Jeffrey Stocum, Air Quality Technical Services Section manager, introduced the item. Elizabeth Elbel, Greenhouse Gas Reporting Program lead, presented the proposed changes to the GHG reporting rule. Elbel described the program, and outlined the process for developing the proposed rule revisions including public outreach and comments received regarding the revisions.

Commissioners asked several clarifying and informational questions about the program and the proposed rules.

**Action:** Adopt the proposed rules as seen on pages 20 through 29 of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules

**Move:** Commissioner Mosby

**Second:** Commissioner Kile

*The commission unanimously approved the action*

#### **D. Informational item: Hazardous waste overview and fee increase proposal**

Brian Fuller, Materials Management manager, introduced the item and presented a summary of the program's operations and activities. Jeanette Acomb, Hazardous Waste Program policy analyst, provided additional information about the program and described the staff work across the state. Acomb described the program's funding structure, and noted that DEQ will request that the commission take action on a proposed fee increase this spring. She also explained that the Hazardous Waste

Program will have additional requests for commission consideration this year in addition to the fee increase request.

Commissioners asked clarifying and informational questions about the program throughout the presentation and asked for some follow-up information at future presentations.

### **Working lunch and executive session**

The commissioners, DEQ staff and Oregon Department of Justice staff met for an executive session over a working lunch from approximately noon to 1:15 p.m. This executive session was held under the authority of ORS 192.660(2)(h) and (i).

### **E. Public forum**

Chair George reconvened the meeting and opened a public comment opportunity for any general topics at approximately 1:20 p.m. Ten people signed up to present, both by in-room presentation and presenting comments by telephone line.

1. Dale Feik presented comments regarding multiple agency programs and activities.
2. Greg Petitt, Envision Columbia County, presented comments opposing Port Westward's operations related to oil shipments and tar sands. He submitted a copy of his comments to the commission.
3. Paulette Lichatowich, presented comments opposing Port Westward's operations related to oil shipments and tar sands. She noted proposed major modifications for the facility and asked for commission review of the proposals that may be beyond the current DEQ permit.
4. Dan Serres, Columbia Riverkeeper, provided additional comments regarding opposition to Port Westward's tar sand and oil activities.
5. Samantha Cross, Cascadia Wildlands, presented comments opposing the Jordan Cove pipeline proposal. Cross requested that the commission direct DEQ to assess direct and indirect impacts of the project, and all impacted waterbodies along the project's footprint.
6. Gabriel Scott, Cascadia Wildlands, presented addition comments in opposition to the proposed Jordan Cove project. He provided a copy of his comments to the commission.
7. Sarah Beaubien, Tillamook County Creamery Association, presented comments regarding the proposal for temporary rules regarding composting that the commission will review on Friday, Jan. 25, 2019. Beaubien noted support from a coalition for the temporary rules as proposed.
8. Rachel Melissa, attorney representing Farm Power, presented comments regarding the proposal for temporary rules regarding composting that the

commission will review on Jan. 25, 2019. Melissa noted procedural concerns with the proposal as a temporary rule.

9. Daryl Maas, FarmPower, presented comments regarding the proposal for temporary rules regarding composting that the commission will review on Jan. 25, 2019. He noted concerns regarding the product intended to be accepted by the Port's biodigester in Tillamook.
10. Kevin Maas, FarmPower, also commented on the proposal related to composting and biodigestion, as proposed for commission action as item J on Friday, Jan. 25, 2019.

Chair George closed the public forum at approximately 2:15 p.m.

#### **F. 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. Commissioners asked informational questions about items throughout the presentation.

#### **G. Informational item: DEQ Integrated Toxics Strategy update**

Deputy Director Leah Feldon introduced the item and described the overall purpose of the Integrated Toxics Reduction Strategy, a comprehensive update of the original 2012 strategy. She provided background information about Team Toxics, the agency process for updates to the Integrated Toxics Reduction Strategy and other summary information. Deputy Director Feldon stressed the importance of the ways all agency programs coordinate and have cross-program implementation of toxics reductions.

Kevin Masterson, Agency Toxics Coordinator, described the 2012 Toxics Reduction Strategy and the work completed under that plan's scope. He noted some of the key successes of the strategy's outcomes since 2012.

Lori Pillsbury, Lab Technical Services manager, described the engagement and outreach process, and presented a summary of the strategy's guiding principles for all the planned actions in the 2018 Integrated Toxics Reduction Strategy update. Pillsbury noted the three major themes in the 2018 update build on the successes of the 2012 strategy and that the types of actions in the 2018 are either implementation-ready, starting in 2019, or are the start of research and evaluation with implementation of these items starting after several years. Pillsbury and Masterson described the 14 actions in the 2018 update, and discussed the stages for implementation-ready work and those items that will require research and development in 2019. Feldon provided a summary and thanked the members of Team Toxics, and the Governance Team for their efforts to update the Integrated Toxics Reduction Strategy.

Commissioners asked clarifying and informational questions throughout the presentation.

### **Comment period for Item G**

Chair George opened a brief comment period at approximately 4:15 p.m. specific to Item G, the informational presentation regarding DEQ's Integrated Toxics Strategy. One person signed up to present comment.

1. Dale Feik, Hillsboro Air and Water, presented comments regarding his support for DEQ's efforts to reduce toxics through upstream and prevention-focused activities.

### **H. Informational item: Greenhouse gas reductions programs at DEQ**

Director Whitman introduced the item and presented an overview of climate change issues in Oregon to start the item. He described the state's goals for greenhouse gas emissions reductions, the emissions inventories that used to track emissions and the ways that DEQ's work connects to those goals.

David Allaway, Materials Management Senior Policy Analyst, described the way Oregon measures its emissions through a consumption-based emissions inventory. He described the overall program goals and activities of the Materials Management Program, and the life cycle approach to understanding materials and emissions for Oregon. Colin McConnaha, Climate Policy Advisor, described the Air Quality programs that work directly or indirectly on greenhouse gas emission reductions, and otherwise provide climate benefits.

Director Whitman provided some summary comments regarding climate policies and legislation proposed by the 2019 Oregon Legislature and noted that DEQ will provide updates to the commission through the Session. Commissioners asked clarifying and informational questions throughout the item and provided their feedback on programmatic and comprehensive actions for the agency.

### **Comment period for Item H**

Chair George opened a brief public comment opportunity at approximately 5:45 p.m. specific to the issues discussed in item H, the informational presentation regarding greenhouse gas reductions activities at DEQ. One person signed up to comment.

1. Dale Feik presented comments related to climate issues and indicated his support for the commission to take direct and major action on greenhouse gas emissions.

**Chair George recessed the commission at approximately 5:50 p.m. until 9 a.m. on Friday, Jan. 25, 2019.** Commissioners and DEQ staff attended an informal social dinner on Thursday evening. No commission business was conducted at the dinner.

**Friday, Jan. 25, 2019: 9 a.m. to 3:30 p.m.**

**Chair George reconvened the commission at approximately 9 a.m.**

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

**I. Informational item: Mercury reductions in Oregon's water**

Jennifer Wigal, Water Quality Division deputy administrator, introduced this item and provided a summary of the presentation structure today. The co-presenters introduced themselves at the start of the item: Aron Borok, Gene Foster, Paula Calvert and Kevin Brannan.

Borok, Standards Program specialist, described the elements that go into the Human Health Criteria that DEQ uses for its standards and other work of the Water Quality Division. Foster, Standards and Assessment Program manager, described the fish considerations within the Willamette River Mercury TMDL. He noted that DEQ is using the food web model for the observed distribution of total mercury on eight fish species found in the Willamette River. Foster noted that DEQ uses the northern pike minnow to ensure the standards are set to a level that are protective of fish and other uses of the Willamette River. Calvert, Columbia River Coordinator and policy analyst, described the processes for evaluation and development of information, and provided clarifications and additional information throughout the presentation. Brannan, TMDL Program analyst, discussed the modeling approaches used by DEQ to create load allocations for the mercury TMDL and the limits and benefits of using a modeling system to create effective implementation strategies.

Commissioners asked clarifying and informational questions throughout the presentation. Director Whitman provided additional clarifying statements during the staff presentation.

**Comment period for Item I**

Chair George opened a public comment opportunity at approximately 11:15 a.m. specific to the information presented and discussed during item I. One person signed up to present comment.

1. Dale Feik, Hillsboro Air and Water, presented comments on water quality issues in Oregon

*This item was taken out of order*

**N. Informational item: Commissioner reports**

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

Commissioner Mosby attended the January 9 meeting of the Board of Forestry as the liaison to that entity. He noted that Joe Justice is the new liaison from BoF to EQC. He also explained that he attended an ODOT committee meeting January 11 for Connect Oregon project proposal decisions.

Commissioner Kile explained that she attended a national Superfund conference in December 2018, and noted that two presentations at that conference could be very useful to the commission. She noted that she was unable to attend the most recent OWEB meeting in her role as liaison to that body.

Commissioner Addington noted that he recently met with the Klamath Falls Economic Development Corporation regarding a company interested in locating in the area and unable to come in due to the current limits of the Klamath River TMDL. Director Whitman responded regarding the water quality issues and commitment to economic development and continued environmental protection.

Chair George noted that she attended some of the November 2018 Board of Agriculture meeting, which included some conversation about water quality and Strategic Implementation Areas. She also recently attended a conference organized by the Meyer Memorial Trust related to the Willamette River. Chair George also met with Energy Trust of Oregon about ways that agency provides technical assistance and incentives for better energy options.

The commissioners discussed their meeting schedule and agreed to change their March 2019 meeting date to March 19 and 20, instead of 21 and 22, and to hold that meeting in Portland.

**Working lunch and executive session**

The commissioners, DEQ staff and Oregon Department of Justice staff met for an executive session over a working lunch from approximately 11:45 a.m. until 12:35 p.m. This executive session was held under the authority of ORS 192.660(2)(h) and (i).

**J. Action item: Proposed temporary rules for composting**

Gary Vrooman, the commission's legal counsel, provided a summary of the procedural elements associated with the temporary rule process.

Audrey O'Brien, Materials Management Program manager, introduced this item and provided a summary of the agency's composting rules. Bob Barrows, Waste Policy analyst, described the technical elements of biodigestion as a composting practice and provided background on the proposed temporary rule. Jennifer Purcell, North Coast Regional Solutions Team member, provided information about DEQ's reasons for bringing a temporary rule instead of the standard permanent rule.

The commissioners asked clarifying and informational questions throughout the presentation. Director Whitman provided additional clarifications related to the proposal. Following commission discussion, Director Whitman suggested that the commission not take action today and DEQ return with additional research with a potential future proposal for a temporary rule to be considered at a special meeting within the near future.

**Action:** Table Item J, returning with additional information and opportunity for review of comments within a month at a special meeting to consider the proposed temporary rule revisions

**Move:** Commissioner Kile

**Second:** Commissioner Mosby

*The commission unanimously approved the action*

#### **K. Informational item: Calico/Grassy Mountain mine project**

Randy Jones, DOGAMI, provided a summary of the proposed Grassy Mountain mine, in southeast Oregon near Vale. Larry Knudsen, DEQ Chemical Mining Permit coordinator, described the proposed mining operational processes and the information the project staff have received to-date. Knudsen outlined the consolidated permitting process associated with this type of mine, and discussed the engagement of the various local, state, federal and tribal government entities. Knudsen also discussed the data collected by the project's Technical Review Team, in advance of permit applications. He noted the four types of DEQ permits that would be required by the applicant in order to construct and operate the proposed mine, and listed the many other permits that could be required by state agencies.

Jones discussed the permitting process in the context of coordination with federal agencies, and ways that federal requirements are incorporated in the development process for state permits. He summarized the anticipated next steps in 2019, and noted a commitment to keep the commission informed going forward. Commissioners asked informational questions throughout the presentation.



### **Comment period for item K**

At approximately 2:10 p.m., Chair George opened a brief comment period specific to the information presented during item K. No people signed up to comment.

### **L. Action item: Oregon Clean Vehicle Rebate Program proposed rules**

Ali Mirzakhali, Air Quality Division administrator, introduced the item. Rachel Sakata, Clean Vehicle Program lead, described the proposed rule revision. She noted that the proposal would allow vehicle types to receive the rebates under the Clean Vehicle Rebate Program. Sakata described the public engagement process for the proposed rule changes and responded to clarifying and informational questions from the commission.

**Action:** Adopt the rules as seen on pages 25 through 28 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*

### **M. Informational item: Budget process updates**

Nancy Bennett, Office of Policy and External Affairs manager, introduced the item and explained that the item is informational and there is no request for commission action at this time. Bennett explained that DEQ will present to the Ways and Means Subcommittee for Natural Resources the week of February 18 to provide general agency budget information and additional detail on the policy option package requests from DEQ for the 2019-21 Oregon Legislative Session.

Bennet presented a summary of the Land Quality Division budget requests and outlined that five of the six requests from that division were included in the Governor's Recommended Budget for 2019-21. Ali Mirzakhali, Air Quality Division administrator, described the Air Quality Division requests, with four of the five requested packages included. Jennifer Wigal, Water Quality Division deputy administrator, presented the Water Quality Division requests, noting that five packages were included as proposed but 10 requested packages were not included. Bennett described the requests from Agency Management, noting that three of six were included in the Governor's Recommended Budget materials.

Annalisa Bhatia, Senior Legislative advisor, provided a brief update on the Legislative Session, which began on Monday, January 21. She noted highlights of known and anticipated bills and legislative actions that may involve DEQ during the session.

Commissioners asked clarifying and informational questions throughout the presentation. Director Whitman provided additional detail and clarification on several items.

**Chair George adjourned the meeting at approximately 3:10 p.m.**

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**2019 EQC meetings**

- March 20: Portland
- May 16-17: Portland
- July 18-19: Enterprise
- September 26-27: Madras
  - *Partly a joint meeting with the Oregon Board of Agriculture*
- November 14-15: Portland



State of Oregon Department of Environmental Quality

# Oregon Environmental Quality Commission special meeting

*Feb. 25, 2019  
Portland DEQ offices  
700 NE Multnomah Street; room 610 (6<sup>th</sup> floor)*

## **Monday, Feb. 25, 2019. 3 p.m.**

**Vice-chair Baraso convened the special meeting at approximately 3 p.m.**

- **Present:** Vice-chair Baraso, Commissioner Kile (by phone) and Commissioner Mosby (by phone)

### **A. Action item: Proposed temporary rules for composting**

DEQ presented proposed temporary rules to revise the composting rules related to biodigestion process requirements. This proposal was tabled at the Jan. 24-25, 2019, EQC regular meeting and issued for public notice in February.

Audrey O'Brien, Northwest Region Environmental Partnerships Manager, and Bob Barrows, Senior Waste Policy Analyst, reviewed the proposal and materials provided to the commissioners for their consideration of the temporary rules. They described the public comments received in response to the proposal and Deputy Director Leah Feldon provided additional clarification on several items. Jeremy Fleming, Solid Waste Compliance Specialist, and Jennifer Purcell, North Coast Regional Solutions Team member, also provided specific responses to commissioners' clarifying and informational questions about the proposed temporary rules.

**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 rules as shown on page 10 of the staff report for this item as part of Chapter 340 of the Oregon Administrative Rules to be effective on filing with the Oregon Secretary of State.

**Move:** Commissioner Kile

**Second:** Commissioner Mosby

*The commission approved the action unanimously*

**Vice-chair Baraso adjourned the special meeting at approximately 3:35 p.m.**

*For questions about the agenda or any commission matters, please contact Stephanie Caldera, EQC assistant: [Caldera.Stephanie@deq.state.or.us](mailto:Caldera.Stephanie@deq.state.or.us) or 503-229-5301* Item A 000011