



State of Oregon Department of Environmental Quality

Minutes: Oregon Environmental Quality Commission meeting

408th regular meeting

*May 7, 2020: Teleconference
8:30 a.m. to 4:30 p.m.*

Chair George convened the meeting at 8:45 a.m.

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

A. Action: Temporary rulemaking – Vehicle Inspection Program fee increase

Ali Mirzakhilili, Air Quality Division administrator, introduced this item. Karen Williams, Air Quality Planning policy analyst, presented the proposed temporary rulemaking for fee increases for the Vehicle Inspection Program. Williams explained the need for the proposed fee increases and provided general program information. Michael Skorupka, Vehicle Inspection Program manager, provided additional clarifying and informational detail and responses to commissioner questions.

Action: Determine that failure to act promptly would result in serious prejudice to the public interest or the interests of the affected parties as presented in the Justification section of the staff report for this item; reaffirm the finding that in accordance with ORS 468A.400 and ORS 468A.370, 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 temporary rules as seen in Attachment A of the staff report for this item as part of Chapter 340, Division 256 of the Oregon Administrative Rules to be effective June 1, 2020.

Move: Commissioner Kile

Second: Commissioner Mosby

The commission unanimously approved the action as presented.

B. Action: Rulemaking – Air Contaminant Discharge Permit fee increase

Ali Mirzakhilili, Air Quality Division administrator, introduced this item and provided an overview of the ACDP program. Dan DeFehr, Air Quality Operations analyst, presented the background information for the fee increase proposal and discussed the development, public outreach and intended outcomes associated with the proposal. Mirzakhilili and DeFehr noted that the proposed fee increases were approved by the 2019 Oregon Legislature, and would be the first fee increase for the ACDP program since 2014.

Commissioners asked clarifying and informational questions throughout the presentation. The commission declined to take action on the fee increase proposal; however, they indicated their

general support for the proposal and asked DEQ to return at a future meeting with additional options related to the timing of the fee increases, to reflect various phase-in options for small businesses and other fee payers.

C. Action: Rulemaking – Greenhouse Gas Reporting Program rule amendments

Colin McConnaha, Office of Greenhouse Gas Programs manager, introduced the item. Elizabeth Elbel, Greenhouse Gas Data Verification specialist, provided an overview of the rulemaking proposal and described the functions of the Greenhouse Gas Reporting Program. Cory-Ann Wind, Clean Fuels Program lead, described the proposal elements related to streamlining the reporting requirements for Clean Fuels Program participants, and outlined other program efficiencies associated with the rulemaking proposal. Lauren Slawsky, Climate Change Policy analyst, described the data verification requirements as part of the rulemaking proposal, including a new provision for third-party verification of some data submitted to DEQ. Presenters responded to clarifying and informational questions from the commissioners throughout the item.

Action: Adopt the proposed rules and rule amendments seen in Attachments A1 through A4 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 as presented.

D. Informational: Executive Order 20-04 regarding greenhouse gas emissions reductions

Director Whitman introduced this item and provided general background information on Executive Order 20-04 and the agency's new Office of Greenhouse Gas Programs. Colin McConnaha, Office of Greenhouse Gas Programs manager, discussed the Order's directives to DEQ to create cap-and-reduce programs in multiple sectors related to greenhouse gas emissions. He noted the connection to the agency's existing Clean Fuels and emissions reporting programs, as discussed in Item C. Michael Orman, Air Quality Planning Program manager, discussed the Statewide Transportation Strategy, a multi-agency sustainable transportation and emissions reduction effort in which DEQ is involved, and the directives from Governor Brown related to that Strategy. Director Whitman provided information about directives for methane reduction through food waste prevention, in addition to other regulatory updates for landfills.

Presenters answered clarifying and informational questions from the commission throughout the item. Director Whitman noted that the agency would provide regular updates on this work, especially as the new rulemaking efforts established by Executive Order 20-04 begin and commissioner engagement is needed.

Item E was tabled until the July 16-17, 2020, EQC meeting

E. Action: Rulemaking - Water Quality Program fee increase

Chair George recessed the commission for lunch from approximately 12:15 until 1 p.m.

F. Action: Contested case hearing - NW Metals

At 1 p.m., Chair George reconvened the commission meeting to hear an appeal of the Proposed Final Order regarding alleged environmental violations at NW Metals, an auto salvage facility in northeast Portland. Gary Vrooman, EQC legal counsel, provided an overview of the matter and polled the commissioners for any ex parte contact or conflicts of interest, of which none were reported.

Adam Kimmel, representing NW Metals, provided oral argument on the matter and asked the commission to reject elements of the judge’s ruling and take other actions to adjust any final order. Kieran O’Donnell, DEQ Office of Compliance and Enforcement manager, and Courtney Brown, DEQ Environmental Law Specialist, provided DEQ’s oral argument on the matter and asked the commission to uphold the judge’s ruling and issue a final order in the matter. Kimmel and Brown both provided short rebuttals and answered clarifying questions from the commissioners.

Action: Issue a final order adopting Administrative Law Judge Fair’s Proposed and Final Order

Move: Commissioner Addington

Second: Commissioner Kile

The commission unanimously approved the action as presented.

G. Public forum

At approximately 2:10 p.m., Chair George opened the public forum, a public comment opportunity for people to present testimony on environmental topics and other matters of interest to the commission.

Commenters indicated their request to comment using the touch-tone telephone controls or the “raise hand” feature in the Zoom platform. Twelve people indicated their request to comment, and are listed below in order of comment.

1. Mark Riskedahl
2. Shari Sirkin
3. Katherine Chudy
4. Dan Serres
5. Damon Motz-Storey
6. Christina Martin
7. Jonah Sandford
8. Ryan Rittenhouse
9. Samuel Diaz
10. Dale Feik
11. Dr. Theodora Tsongas
12. Elijah Cetas

Chair George closed the public forum at approximately 2:55 p.m., once all commenters had presented their testimony to the commission.

H. Informational Director’s report

Director Whitman presented written and verbal updates on agency activities and other issues of interest to the commission. In addition to the items included with the written report, Director Whitman noted that a number of DEQ staff had recently received recognition from the Governor’s Office for their public service and role as “change champions” within state government. Commissioners asked clarifying and informational questions about items throughout the presentation.

I. Informational: 2021-23 Legislative concepts and policy option packages

Nancy Bennet, Policy and External Affairs manager, introduced the item and presented an overview of the agency’s timeline for policy and budget development. Policy analysts Annalisa Bhatia, Abby Boudouris, Matt Davis and Rian Hooff presented the proposed Legislative Concepts and Policy Option Packages under development for cross-program, Land Quality, Air Quality and Water Quality Divisions, respectively. The commissioners asked informational questions about the content of the proposals, and discussed commission engagement during the development and legislative processes.

Bennet noted that the agency will request commission approval for Chair George to certify the 2021-23 DEQ Agency Request Budget, as required by state policy, at a meeting later this year.

Chair George adjourned the meeting at 5:02 p.m.

Remaining 2020 meeting dates (all locations to be determined)

July 16-17

September 17-18

November 19-20