
Date: Nov. 16, 2020
To: Environmental Quality Commission
From: Richard Whitman, Director
Subject: Item B: Director's Report (Informational)
Dec. 3, 2020, EQC special meeting

1. Agency Management

1.1. Budget and Legislative updates

On September 1, DEQ submitted its 2021-2023 Agency Request Budget (ARB), which includes general fund and other fund budget priorities for the coming biennium. In October, DEQ participated in a budget appeal meeting with key staff from the Chief Financial Office and the Governor's Office to discuss the agency's budget priorities. Governor Brown will release her Governor's Recommended Budget on Dec. 1, 2020. Given the challenging economic environment facing Oregon, DEQ expects the Governor will include some reductions to the general fund component of the DEQ ARB. At the same time, because many of the agency priorities, such as greenhouse gas reductions and improving air and water quality, align with the Governor's natural resource priorities, some of the proposed policy option packages may be included in her budget.

No specific changes to the structure of the session have been announced, however, legislative leadership are discussing options for how to proceed in a manner that is safe for the public, legislators, and their staff. The 2021 session could be shorter than average, with fewer legislative issues discussed.

DEQ met with the Governor's Office on November 17 to discuss legislative concepts. The agency currently expects to move forward with the following five concepts:

- **Recycling Modernization**
 - DEQ led the Recycling Steering Committee, which reached consensus on a broad set of recommendations to modernize Oregon's recycling system. The RSC's proposal is an innovative, shared responsibility framework that updates the roles of existing players and gives producers new obligations that help modernize the system. Producers of packaging and printed paper will be required to fund many

system improvements, support expansion of recycling service across the state, and ensure responsible recycling. Local governments will maintain local control of collection and customer education; processors will be required to meet new performance standards; and DEQ will provide strong system oversight to create positive environmental and social outcomes for the public good.

- **Greenhouse Gas Regulation**
 - As DEQ develops the plan for implementation of a Cap -and-Reduce program to reduce GHG emissions, there a few program elements that could be strengthened by legislation.
- **Hazardous Waste Fee Updates**
 - DEQ is proposing to raise its hazardous waste fees to more closely align with program needs and to tie fees in the future with either inflation or the consumer price index. Our legislative concept will modernize and streamline the statute, ORS 465.376, which governs disposal fees, also called “tipping” fees, for wastes disposed of in Oregon’s only RCRA Subtitle C Hazardous Waste Landfill, located in Arlington.
- **EDMS Operating Funds/Credit Card Fee**
 - This legislative concept provides DEQ authority to recover operating costs for EDMS through a small percentage charge on all fees and invoices generated for customers using EDMS services. This legislative concept was implemented by ODFW after a similar IT modernization, and would also provide DEQ general authority to pass the credit card fee charged per transaction on to the consumer.
- **Groundwater Monitoring**
 - This legislative concept establishes a task force to evaluate the efficacy of Oregon’s current groundwater quality protection laws, based on an independent program review. The taskforce will evaluate the study's findings, and make recommendations on whether changes to statute or state regulations are needed to achieve state goals.

2. Laboratory

2.1. Water Quality Toxics Monitoring: Willamette Basin Report

The DEQ laboratory released its updated report on water quality toxics monitoring activities in the Willamette Basin. This report combines results of DEQ’s Toxics Monitoring Program sampling in the Willamette River Basin from 2008 and 2016 in three media types: water, sediment and fish tissue. Analysis did not find evidence of toxics that pose an immediate risk to human health or the environment. Results from this study will be used to inform the Toxics

Monitoring Network, Permitting and Regulatory Programs, Toxics Reduction Strategy, and the Integrated Report 303(d) list. Access to the full report is available [here](#). In addition, to improve communication of this important work, the laboratory developed an [infographic](#) summarizing the report findings. Infographics are one way the laboratory is exploring to communicate findings in the future. More information about the laboratory's water quality toxics monitoring work is found on the program [website](#).

2.2. Laboratory partners with OHA to address drinking water concerns after wildfires

The DEQ laboratory in partnership with the Oregon Health Authority mobilized quickly to respond to the concerns over possible contamination in drinking water supplies following the wildfires. Multiple small water systems sent samples to the laboratory to be analyzed for volatile organic compounds. These compounds, such as benzene, may be present in water distribution systems damaged by fire or extreme temperatures. These issues first appeared following the California fires from a couple years ago. The Oregon water supply systems maintained do not drink orders until they received the results from testing. The laboratory completed its analytical work in as a little as 48 hours and provided the information to OHA and the communities. To date, no immediate public health issues have been identified. Ongoing work around drinking water safety after these wildfires will continue in cooperation with OHA.

3. Air Quality Division

3.1. Regional Haze informational meeting

On October 22, the Regional Haze program, held the first of two public information sessions. Over 110 participants attended, including members of the public, industry representatives, environmental and public health agencies and advocates, representatives of tribal nations, local, county, state, and federal governments, and included participants from as far away as Brazil. Robust comments during the question and answer period included queries about wildfire, environmental justice, Crater Lake National Park, the Columbia River Gorge, reasonable progress goals, modeling, and timelines. The four-factor review for emissions controls analysis continues, as well as review of recently released modeling results from the Western Regional Air Partnership. The next public information session for Regional Haze is scheduled for December 3. In the first session, feedback from participants requested additional information on Regional Haze programming, cost control analyses, potential environmental justice and other implications, as well as additional information on Crater Lake and Columbia River Gorge.

3.2. Landfill Gas rulemaking

DEQ is preparing for the landfill gas emission rulemaking aimed at reducing greenhouse gas emissions from these sources. Currently, DEQ is recruiting for the rulemaking advisory committee. DEQ has reached out to groups representing the landfill industry, local government, and environmental or human health concerns to be on the committee and provide feedback. The committee will meet at least three times, to discuss the background of the rulemaking and landfill gas, proposed rules, potential improvements, and equity concerns and fiscal impact. DEQ plans to schedule these meetings between December 2020 and February 2021.

3.3. Open Burning Rule updates

Outdoor, or open, burning of materials such as domestic, industrial and slash debris fall under the regulations ORS 340-264 for Open Burning. It is important for the health of Oregonians to reduce exposure to open burning. Collaborations with regional and local staff throughout Oregon to capture the needs and gaps for open burning has started. Current gaps include providing accurate burn ban information to the public, tracking jurisdictional authority, and clarification of the roles in open burning for DEQ, Department of Agriculture and Department of Forestry. Formal stakeholder engagement in the form of RAC meetings and regional surveys will begin in late spring or early summer of 2021.

3.4. Cross-Agency Smoke Management Implementation

Prescribed burning is a tool used by forest landowners to maintain healthy forests and reduce the extent and severity of wildfires. Recognizing the need for increased coordination due to the COVID-19 pandemic and the possibility for elevated respiratory irritation due to smoke from these types of fires, the Oregon Health Authority and DEQ assisted the Oregon Department of Forestry in developing a Fall Burning 2020 COVID-19 Implementation Plan. Added precautionary measures include the use of OHA county-level baseline COVID-19 reopening data and the temporary use of legacy smoke management instruction rules, specifically those implemented prior to March 1, 2019. OHA will advise ODF regarding any special circumstances that may affect prescribed burning. DEQ will continue to monitor smoke impacts across the state via our monitoring network and will work to build smoke-ready communities through the development and implementation of community response plans. In January 2021, staff from DEQ, ODF and OHA will co-present a Smoke Management Plan implementation update to the commission with special attention given to address questions and concerns the commission has previously posed.

3.5. Clean Diesel contracting standards

DEQ met with representatives of ODOT and DAS in late September to discuss DEQ's draft model clean diesel contracting standard. The final DEQ model standard may be used by state

contracting agencies when adopting rules for clean diesel contract specifications, ORS 279C.537. DEQ is reviewing initial agency comments and plans to meet with agency representatives to discuss a second draft before requesting public comment. DEQ is also on track to close out its 2017-18 US EPA Diesel Emissions Reduction Act grant in March 2021. At that time, DEQ will have incentivized the retrofit or replacement of approximately 48 older diesel school buses across the state using \$1.1 million in combined federal and state voluntary matching funds.

3.6. Cleaner Air Oregon

The Cleaner Air Oregon program held the first of two Rules Advisory Committee meetings earlier in November. The current rulemaking addresses inconsistencies between CAO and DEQ's longer standing state Air Toxics program. The committee will meet again in January to review final rulemaking proposal prior to a public comment period. The program is also releasing a draft CAO Community Engagement Toolkit for informal public review. This draft Toolkit describes proposed procedures, best practices, and actions that DEQ, working closely with OHA, will consider when planning and executing community engagement activities in neighborhoods adjacent to facilities performing CAO assessments. It includes assessments of environmental justice related best practices established by the Oregon Environmental Justice Task Force. Once final, DEQ will use the Toolkit to evaluate community engagement needs and to plan related activities. DEQ will provide a more in-depth update on all of these program developments to the commission in January 2021.

4. Land Quality Division

4.1. Household Hazardous Waste events

DEQ and the City of Sandy hosted a household hazardous waste event on October 3, which attracted over 300 people. The final event for 2020 was in Burns, on October 31, and more than 75 people showed up. Debris from the recent wildfires was not a focus for this collection event.

One-day collection events are increasing in demand since the program's inception in 1990. These events help households in rural and smaller communities properly dispose of hazardous materials, which protects Oregon's lands and waters. Since 1990, DEQ has held 217 events in 95 different Oregon cities. Cumulatively, over 60,000 Oregon households and small enterprises have delivered over six million pounds of hazardous materials.

4.2. Updated guidance to Ecological Risk Assessments

DEQ's Cleanup Program has completed long-awaited updates to its guidance on ecological risk assessments. Ecological risk assessments are required elements of remedial investigations, and

are conducted to characterize the nature and extent of hazardous substances at a contaminated site. The outcome of the assessments may ultimately determine cleanup actions and goals.

DEQ initiated this update in 2014 after stakeholders expressed concern that the agency's 2001 directive lacked clear criteria to ensure timely and consistent decision-making. The previous directive also included outdated screening level values that were not based on the latest science. To develop the updated directive, DEQ convened a technical workgroup of risk assessors and technical experts to inform the process. Then the agency dedicated significant time and resources toward updating and refining a directive that aims to correct errors in the 2001 guidance, incorporate new science and technologies, provide a means for identifying sites that warrant ecological risk assessments and those that do not, and provide clear and transparent expectations for conducting ecological risk assessments consistent with Oregon statute and rule. The process and methods presented in this directive are based primarily on concepts and approaches in U.S. Environmental Protection Agency Ecological Risk Assessment guidance (EPA, 1997 and 1989) and are consistent with Oregon Revised Statute (ORS 465.315(2)(a)) and Oregon Administrative Rule (OAR 340-122-0084(3)).

4.3. Updates to uses for DEQ's Solid Waste Orphan Site Account

Over the last 18 months, DEQ has been expanding activities under the Solid Waste Orphan Site Account Program. DEQ is using SWOSA funds on private sites that receive domestic solid waste as well as local government-owned landfills. To handle this increase in spending and program scope, DEQ hired a SWOSA Project Manager in August 2019 and a Procurement and Contract Specialist in June 2020. Since then, DEQ has started work on pilot projects including a tire dump site, an auto crushing and salvage site, a steel salvage and clandestine drug lab, as well as an old logging operation turned disposal site. The program has also launched its [webpage](#) containing program facts, guidance, an up-to-date application, and will host DEQ's statewide SWOSA solicitation in 2021. Program staff have developed a site ranking system that accounts for environmental justice, the cost to DEQ with potential impacts on human health and the environment, and a host of public health and environmental impacts when ranking sites based on the greatest risk to human health and the environment. The program is developing a program manual to increase SWOSA utilization by assisting regional project managers from the Materials Management and Cleanup programs in navigating complexities found in these intricate cross-program projects.

5. Water Quality Division

5.1. NPDES Individual Permit highlights

DEQ took 43 Permit Actions in Federal Fiscal Year 2020, of which 34 were renewals, eight were modifications and one was a termination/revocation. The state's largest discharger by volume, City of Portland Columbia Boulevard Wastewater Treatment Plant, was renewed. The state's longest administratively continued permit, Columbia Forest Products was renewed. This permit was last renewed in 1984.

5.2. Water Quality 2020 Fee Rule updates

DEQ will present proposed amendments to the commission in January or March 2021 for the Water Quality Fee Rule update, adopted by the commission in July 2020, due to typographical errors. These 12 errors are all associated with the phase one fee increase that is effective from Aug. 1, 2020, through July 31, 2021. The errors have been communicated to fee payers, where applicable.

6. Eastern Region

6.1. Ash Grove Cement Title V Permit renewed (Baker County)

Ash Grove Cement, Oregon's only cement manufacturing plant and one of the largest in the nation, is located in Baker County. In October, DEQ issued the Ash Grove Title V permit renewal, addressing the oldest (15 years) administratively extended permit in Eastern Region. This is a big milestone for DEQ's Air Quality Permit Program and will help protect Oregon's air quality in coming years. This permit involved significant public participation and interest and complex technical issues, including control of mercury emissions. The renewed permit:

- Requires new emissions controls and sets tighter emission limits for a number of pollutants including mercury
- Requires new Continuous Emission Monitoring Systems for a number of pollutants, including mercury

The new controls designed to meet new EPA standards remove approximately 98 percent of mercury emissions. The Cleaner Air Oregon initial air toxics risk screening classified Ash Grove into the third prioritization group for calling existing sources into the program, based on the facility's location and dispersion characteristics. The nearest residence is more than 1,000 meters from the facility.

A special thanks and appreciation are noted to permit writer Doug Welch, permit coordinator Nancy Swofford and permit manager Mark Bailey for this big accomplishment.

6.2. Marathon Pipeline Umatilla River Crossing (Umatilla Indian Reservation)

This past February, flooding and erosion exposed a section of a petroleum pipeline that crosses the Umatilla River on the Umatilla Indian Reservation, about 10 miles upstream of Pendleton, Oregon. The pipeline is owned and operated by Marathon Pipe Line, LLC, an Ohio-based company. This fuel line transports gasoline, diesel and aviation fuels from Salt Lake City refineries through Boise, Idaho to Pasco, Washington terminals.

EPA, DEQ, the Confederated Tribes of the Umatilla Indian Reservation, and Marathon worked together to replace this section of the pipeline and prevent a spill into the river. Critical stakeholders and partners throughout the project include the City of Pendleton, Umatilla County Emergency Management, Oregon Health Authority, Oregon Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service. DEQ staff from Emergency Response, Water Quality and Regional Solutions played key roles.

At the beginning of the emergency response phase, preventative booms were placed proactively around drinking water sources and other sensitive areas as a precaution in the event that a spill occurred. In October, Marathon drilled a replacement pipeline 40 feet under the Umatilla River, where the pipeline is more protected from future flooding and erosion risks. The two exposed sections of the old pipeline were drained, purged of fuel and capped off. With the exposed pipelines no longer containing any fuel, the threat of a spill occurring was mitigated successfully. The federal Pipeline and Hazardous Materials Safety Administration performed an on-site visit October 14 and 15 and verified the progress of the project.

By the end of October, the exposed old pipes, the super sacks and support structures were removed. This marked the successful end of the “in water” and major work activities for the Umatilla pipe removal. Remaining work planned for early November includes site cleanup and restoration, including re-seeding disturbed areas. EPA and DEQ ended their participation in the Unified Command response team once the pipes were removed.

6.3. Boise Cascade (Elgin)

The Boise Cascade, Elgin plywood mill contains an on-site industrial waste landfill and pond and irrigation system for storage and land application of industrial wastewater. The facility's DEQ permits include a solid waste landfill permit, a water quality WPCF wastewater permit, an industrial stormwater permit, and a Title V air quality permit. Recent news articles reported that the company gave notice it may close or curtail operations, citing both the wildfires that have

limited access to timber for the mill, and an order from DEQ regarding contamination in the plant's wastewater.

The matter is subject to ongoing litigation filed by the company. Settlement negotiations are ongoing to resolve the issues.

7. Northwest Region

7.1. Columbia Steel (Portland)

DEQ issued a public notice November 2 for the proposed Standard ACDP for Columbia Steel Castings Co., Inc., which includes a public hearing. The public hearing is scheduled for December 2 and will begin at 6 p.m. Due to COVID-19 restrictions, the public hearing will be held virtually. Written comments can be submitted until 5 p.m. on December 18.

CSC operates an alloy steel casting foundry that produces medium to large size castings using a process that includes metal melting, olivine green sand mold and core making, and metal pouring, casting shakeout, and finishing. The facility is located in north Portland and has been operating since 1962. The primary sources of emissions at this facility are the melting, casting and shakeout, and the pouring of metal, resulting in air emissions of particulate matter (PM), nitrogen oxides (NO_x), carbon monoxide (CO), and volatile organic compounds (VOCs).

This facility is in Group 1 of the Cleaner Air Oregon program and was called in on March 4, 2019. However, the CAO Risk Assessment has not been completed. The emission inventory required to complete the assessment is pending source testing, which is scheduled to be completed by the end of this calendar year. More information is provided in the [Public Notice](#).

7.2. NW Metals (Portland)

DEQ issued a public notice November 6 for the proposed Simple ACDP permit for NW Metals, Inc. Two public hearings are scheduled: December 12 at 1 p.m. and December 15 at 6 p.m. Due to COVID-19 restrictions, these public hearings will be held virtually. Written comments can be submitted until 5 p.m. on Jan. 8, 2021.

The permittee operates a metals recycling facility. NW Metals obtains end of life vehicles (ELVs), sheet metals, and left over metal from manufacturing. ELVs are bought from auctions and individual sellers. Upon arrival, all fluids are drained, refrigerant recovered, batteries removed, and wheels and tires are removed. Batteries and oils are stored onsite and then sent for recycling. Gasoline and refrigerant are reused in automobiles. Usable tires are sold and waste

tires are disposed of. Materials are then transferred to the shredding site where they are crushed and fed into an ARJES shredder. The primary source of emissions from these processes are particulate matter, volatile organic compounds, and carbon monoxide. NW Metals is considered a “new” source for Cleaner Air Oregon. The risk assessment has been completed and operational restrictions have been incorporated into this proposed permit.

7.3. Daimler Trucks North America (Portland)

DEQ will hold a virtual public hearing on the proposed Title V permit for Daimler Trucks North America LLC on November 30, from 6 to 9 pm. Close of public comment will be 5 p.m. on December 14. DEQ and Daimler signed a Best Work Practices Agreement in August 2020, which is now in effect. Requirements of the Agreement will be incorporated into the proposed Title V permit. This is a big milestone for Northwest Region air quality, and it has been a true team effort by many staff and managers.

8. Western Region

8.1. DEQ Co-Convening Natural and Cultural Resources Wildfire Recovery Task Force

The Natural and Cultural Resources Recovery Task Force, NCRRTF, is designed to provide coordination and implementation for the State recovery response to catastrophic wildfires in September 2020. The task force also serves as the coordination and implementation mechanism for State Recovery Function 7 from the March 2018 Oregon Disaster Recovery Plan. The mission of SRF 7 is “to integrate state assets and capabilities to help local governments, tribal governments, and impacted communities address long-term environmental and cultural resource recovery needs after large-scale and catastrophic incidents.” The scope of SRF 7 is to provide “guidance to state departments in aiding local and tribal partners in preserving, protecting, conserving, rehabilitating, and restoring natural and cultural resources.”

SRF 7 objectives are to:

- Implement measures to protect and stabilize records and culturally significant documents, objects, and structures.
- Assess impacts to natural and cultural resources and identify needed protections during stabilization through recovery.
- Complete an assessment of affected natural and cultural resources and develop a timeline for addressing these impacts in a sustainable and resilient manner.
- Preserve natural and cultural resources as part of an overall community recovery.

The NCRRTF was convened by the Governor's Natural Resources Office, and natural resources agency directors in coordination with the Oregon Office of Emergency Management. The task force will focus on near and long-term post-fire recovery needs, serving as the staff-level coordination and implementing entity for the recovery work in the coming months and years.

Because of the broad scope of the NCRRTF, representation includes state and federal natural resources agencies, along with cultural resources expertise. In addition, the Legislative Commission on Indian Services is engaged in the process to determine the most appropriate and effective ways to engage the tribes in this work. Early coordination and communication will focus on assessments and stabilization, while continuing to plan for long-term natural resources recovery in the coming years. The NCRRTF is co-convened by Oregon Department of Forestry, represented by Kyle Abraham, the Oregon Watershed Enhancement Board, represented by Renee Davis, and DEQ, represented by Keith Andersen.

9. Oregon Environmental Protection Act

DEQ's Issue Tracker document is included as Attachment A to this report. The federal government issued two final rules in October for Clean Air Act-related changes, and one related to changes in Clean Water Act matters. There are no supplemental reports or recommendations for commission action at this time.

Oregon Environmental Protection Act: Summary Tracker
This document intended for DEQ staff use and is informational only

Air Quality: Clean Air Act

*Note: Topics in bold have been updated since the last report to the EQC. Topics with an asterisk (**) are new to this document.*

Topic	Brief Description	Next Important Action
Hazardous Air Pollutants	For many years, EPA’s policy was that a major source remains subject to major source requirements even if it reduces its emissions after MACT is applied (“Once In, Always In”). In Oct. 2020, EPA released a final rule replacing this policy to allow the source to reclassify as an area source after it reduces its emissions below the threshold.	The new rule will become effective 60 days after it is published in the Federal Register.
GHG Emissions from Power plants <i>Formerly Clean Power Plan, now Affordable Clean Energy Plan</i>	EPA released the final ACE Rule in June 2019. The final rule: <ul style="list-style-type: none"> • Repealed the Clean Power Plan, which was aimed at lowering emissions from the power sector; • Created a new rule for energy efficiency measures that individual sources will need to install; • Updated the foundational implementing rules for existing source emissions guidelines under Clean Air Act Section 111(d), which were promulgated in 1975. 	The new rule became effective Sept. 6, 2019. <i>EQC received a report Nov 14, 2019.</i> Note: There is pending litigation associated with this rule.

Topic	Brief Description	Next Important Action
<p>New Source Review (NSR): Project Emissions Accounting</p>	<p>The current NSR accounting process studied whether a modification by itself would result in significant emissions increases at Step 1, with no consideration of other decreases. In August 2019, EPA issued a proposed rule that would allow emission decreases from a proposed project at an existing major stationary source to be accounted for at Step 1 of the NSR applicability process.</p> <p>In March 2020, EPA released a draft guidance memo updating the definition of “begin actual construction” for the NSR regulations.</p> <p>On Oct 22, 2020, EPA issued a final rule allowing companies to consider decreases and increases together in Step 1 when assessing whether a proposed project would result in a “significant emissions increase” of a regulated pollutant.</p>	<p>This final rule will be effective 60 days after it is published in the federal register.</p>
<p>GHG Vehicle Emission Standards/California’s Waiver</p>	<p>EPA and NHTSA release a final rule in which NHTSA determines that California’s GHG standards and Zero Emission Vehicle program are preempted under Energy Policy and Conservation Act. EPA additionally withdrew California’s waiver to set its own greenhouse gas emissions standards.</p>	<p>EPA published the final rule Sep. 27, 2019, and will be effective Nov. 26, 2019.</p> <p><i>EQC received a report January 23, 2020.</i></p> <p>Note: There is pending litigation associated with this rule.</p>

Topic	Brief Description	Next Important Action
National Vehicle Fuel Efficiency Standards	<p>NHTSA and EPA concurrently released a final Safer Affordable Fuel-Efficiency (SAFE) vehicle standards for model years 2021 to 2026, on 3/31/2020, to replace the more stringent standards negotiated in 2012 and approved in the 2017 mid-term evaluation.</p> <p>This final rule contains the revised CAFE and GHG standards, which increase in stringency 1.5% each year, down from 5% each year under prior standards.</p> <p>On August 17, 2020 California announced voluntary framework agreements with five automakers to continue to produce cars and trucks through 2026 with the same rates of efficiency as the former standards.</p>	<p>Note: There is pending litigation associated with this rule.</p> <p>The new rule became effective on June 29, 2020.</p> <p><i>The EQC received a report on this rule at its September 2020 meeting.</i></p>
Methane Standards for New Oil and Gas Facilities	<p>EPA has published a proposed rollback of methane regulations, which would rescind emissions limits for methane on oil and gas production and processing. It would also cease regulating emissions during transmission and storage of the gas, among other changes.</p> <p>The EPA released its final Reconsideration Rule and Review Rule, which rescind VOC and methane standards for oil and gas facilities.</p>	<p>This final rule will be effective 60 days after it is published in the federal register.</p>

Topic	Brief Description	Next Important Action
<p>Mercury and Air Toxics Standards (MATS)</p>	<p>These standards regulate mercury emissions from power plants. Mercury is a powerful neurotoxin with severe impacts to children’s and fetal brain development. Coal-fired power plants are a significant source of mercury. Though Oregon has only one remaining coal-fired plant, the health benefits of this regulation are significant.</p> <p>On Feb. 7, 2019 EPA proposed to rescind the 2016 supplemental finding that it is “appropriate and necessary” to regulate mercury and other hazardous air pollutants emitted by power plants, after considering the cost of regulation, under the Clean Air Act. This finding is the legal foundation for MATS. EPA also proposed that co-benefits should be given less weight than other benefits during a cost-benefits analysis.</p> <p>On Dec 31, 2019, EPA’s Science Advisory Board released a draft report that recommended a new risk assessment be completed for the revised Supplemental Cost Finding and Residual Risk and Technology Review and any future mercury regulation.</p>	<p>Note: There is pending litigation associated with this rule.</p> <p>In April 2020, EPA released the final rule withdrawing the “appropriate and necessary.”</p>
<p>Ozone National Ambient Air Quality Standards</p>	<p>The CAA requires EPA to set national ambient air quality standards, NAAQS, for ozone and five other pollutants considered harmful to public health and the environment (the other pollutants are particulate matter, nitrogen oxides, carbon monoxide, sulfur dioxide and lead). In August 2019, EPA issued the Integrated Review Plan for the Review of the Ozone NAAQS.</p>	<p>On July 13, 2020, the EA announced that it is proposing to retain the ozone NAAQS. This decision will be open for public comment, following its publication in the Federal Register.</p>

Topic	Brief Description	Next Important Action
Greenhouse Gas Emissions from Landfills	EPA issued rule on Aug. 26, 2019, to delay implementation of emission guidelines that apply to existing landfills. This rule conflicts with court-ordered schedule of compliance.	DEQ joined multistate coalition challenging rule Oct. 25, 2019. Also seeking to enforce court order separately. Note: There is pending litigation associated with this rule.
Greenhouse Gas Emissions from Trucks and Tractor Trailers	EPA adopted the standards in 2016, which were challenged by truck manufacturers. EPA is reconsidering the standards, and the challenge has been held in abeyance for over two years while EPA conducts its review.	EPA decision on whether to repeal the standards. Note: There is pending litigation associated with this rule.
Limitations on Use of Hydrofluorocarbons as Refrigerant Replacement of Ozone-Depleting Substances	<p>EPA issued guidance in April 2018 reducing limitation on use of hydrofluorocarbons , or HFCs, in what is known as the Significant New Alternatives Policy.</p> <p>EPA’s guidance eliminated all limitations on use of HFCs as alternatives.</p> <p>In February, EPA released the final rule removing requirements for leak repair and maintenance of appliances using 50 or more pounds of refrigerant substitutes, such as HFCs. DEQ’s Materials Management program is analyzing the impacts of this rule.</p>	<p>DEQ joined multistate coalition to challenge the guidance as an illegally promulgated rule. Note: There is pending litigation associated with this rule.</p> <p>The final rule will go into effect 30 days after publication in the Federal Registrar.</p> <p><i>DEQ is analyzing this final rule.</i></p>

Topic	Brief Description	Next Important Action
Wood Stove Emission Standards	<p>EPA issued proposed rule Jan. 14, 2019, to extend the compliance deadlines when new wood stoves must meet stricter certification standards, to control their particulate emissions.</p> <p>The next deadline is for implementation of the Step 2 limits, which would required a 56 percent reduction in particulate matter missions from Step 1 for wood and pellet heaters, a roughly 70 percent reduction for hydronic heaters, and an 84 percent reduction for forced-air furnaces.</p> <p>The EPA is now proposing to extend the compliance deadline to November 30, 2020 for new emission requirements, due to sales disruptions caused by the COVID-19 pandemic. The original deadline for compliance was May 15, 2020.</p>	Waiting on EPA decision on proposal.
Heavy-duty Truck “Glider Kit” Rule	<p>In 2017, EPA proposed a repeal of the emissions requirements for gliders. In 2018, the EPA announced that it would not enforce the annual cap of 300 gliders per manufacturer until at least 2019. It last withdrew that announcement.</p> <p>On Dec 5, 2019, EPA’s Office of Inspector General released a report finding that the agency did not develop the required cost benefit analysis to assess air quality impacts on children’s health for the proposed Glider Repeal Rule. The agency has agreed to do this analysis should it take any further action on the proposed rule repeal.</p>	Waiting on EPA decision on proposed rules.

Water Quality: *Water Pollution Control Act and Safe Drinking Water Act*

*Note: Topics in bold have been updated since the last report to the EQC. Topics with an asterisk (**) are new to this document.*

Topic	Brief Description	Next Important Action
Waters of the United States	<p>The Clean Water Rule defines which streams and wetlands the Clean Water Act protects. It extends Clean Water Act protection to rivers and streams where jurisdiction was previously unclear. In 2018, EPA and Army Corps proposed repealing the rule and returning to the pre-2015 regulations, while they developed a new definition of “waters of the United States (WOTUS).”</p> <p>The proposed rule revisions would have a potentially significant effect on implementation of Clean Water Act programs and implications for state programmatic activities that seek to maintain adequate protections for our water quality resources.</p>	<p>On April 21, 2020, the EPA and Army Corps published the new definitions of “Waters of the United State” in the Federal Register. The new rule becomes effective on June 22, 2020.</p> <p>In May, a coalition of 17 states, including Oregon, filed suit challenging the new rule.</p> <p><i>The EQC heard a report at the July 2020 meeting.</i></p>
401 Certifications Rulemaking	<p>Pursuant to a Presidential Executive Order, EPA published substantial revisions to the federal regulations governing state’s issuance of 401 certifications for federally licensed or permitted projects.</p> <p>The published revisions would substantially affect states’ ability to issue meaningful certifications that ensure protection of the state’s water quality.</p> <p>On July 13, 2020 EPA published a final rule that would restrict the scope of the state review process to “point source discharges into waters of the United States.” The rule would also allow the federal licensing or permitting agencies to set a “reasonable period of time” for a state to review, effectively allowing the federal agency to decide whether a state has waived its right to make a determination.</p>	<p>Note: There is litigation associated with this rule.</p> <p>A final rule was published on July 13, 2020. The effective date of the new rule will be September 11, 2020.</p> <p><i>The EQC heard a report on this rule at its September 2020 meeting.</i></p>

Topic	Brief Description	Next Important Action
<p>Power Plant Effluent Limits</p>	<p>Steam power plant wastewater discharges include arsenic, lead, mercury, selenium, chromium, and cadmium, but current regulations do not contemplate these toxic metals. EPA finalized limitation guidelines in 2016, but there has been extensive litigation surrounding the rule and the later delayed implementation of the rule.</p> <p>EPA has proposed a rule revising the 2015 technology-based effluent limitations guidelines and standards. The proposal contains some exemptions for “high flow” facilities, low utilization boilers, and boilers retiring by 2028.</p>	<p>The final rule was published in the Federal Register on Oct. 13, 2020. The rule goes into effect on December 14, 2020.</p> <p><i>The EQC will hear a report on this rule at its first 2021 meeting.</i></p>