
Date: Jan. 20, 2021

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Item N: Director's Report (Informational)
Jan. 21-22, 2021, EQC meeting

1. Changes in the Federal Administration

The incoming administration of President Biden has announced that it will review and may revise a large number of federal environmental actions taken by the Trump administration over the past two plus years. The attached list of 104 specific actions (Attachment A) covers a wide range. Federal rules that the administration appears likely to consider changing include the Waters of the U.S., or "WOTUS" rule that defines the scope of many federal programs under the federal Clean Water Act, as well as the new EPA rule implementing section 401 of the CWA regarding state water quality certifications. In the air quality arena, changes are expected regarding the virtual elimination of the Obama administration's Clean Power Plan rules for emissions from existing power plants, as well as for vehicle emissions, and the national standards for particulate emissions. As DEQ is responsible for implementing many federal environmental programs in Oregon, these changes will likely trigger corresponding changes at the state level, and likely will affect both protection of the environment and of public health. DEQ will keep the commission informed about major federal program changes as they occur over the coming months and years.

2. Agency Management

2.1. Budget and Legislative updates

Organization days and swearing in of legislators took place January 11, with the 2021 session formally beginning the week of January 19 and running through the constitutional *sine die* date of June 27. While initial portions of the session, such as the adoption of rules, need to happen in person, the session will begin with as much business as possible done virtually to limit potential COVID-19 exposures and to remain in compliance with Governor Brown's directives. From April onward, in-person floor sessions are expected to be scheduled on a regular basis to allow for the timely transfer of bills between chambers.

In the House, there were a number of new committees created – there are a total of 38 for 2021, compared to 32 in 2019 - including a Wildfire Recovery Special Committee. Speaker Kotek announced the creation of a committee to encourage more equitable participation and engagement in the legislative process, and providing staff support for the Black, Indigenous and People of Color (BIPOC) Caucus. The Agriculture and Natural Resources committees were also combined. On the Senate side, the former Environment and Natural Resources committee has been replaced by a Committee on Energy and the Environment, chaired by Senator Lee Beyer, and a Committee on Natural Resources and Wildfire Recovery, chaired by Senator Jeff Golden.

As discussed at the Dec. 3, 2020, special meeting, Governor Brown has introduced several bills on DEQ's behalf for the 2021-23 Session. The notes below are a summary of those bills, which remain substantively similar to the information presented in December 2020.

Recycling Modernization

DEQ, along with a broad group of stakeholders, is proposing legislation to update and greatly improve Oregon's recycling system. This proposal is an innovative, shared responsibility framework that updates the roles of existing players and gives producers of materials new responsibilities to fund system improvements. 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.

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. The approach contained in this legislative concept was implemented by ODFW after a similar technology modernization. It also provides DEQ general authority to pass the credit card fee charged per transaction on to the customer.

3. Laboratory

3.1. Walla Walla Basin Statewide Groundwater Report

The DEQ laboratory recently released its report on the Groundwater Monitoring Study conducted in the Walla Walla basin. The basin straddles northeast Oregon and southeast Washington. DEQ sampled water from 100 residential and agricultural wells on the Oregon side and detected 41 different chemicals in the water, including pesticides, metals, nutrients and bacteria. Some of these chemicals, such as low levels of minerals, naturally exist within water, and others are contaminants.

Most contaminants detected in this study were at levels below EPA drinking water standards, but nitrates, lead and bacteria exceeded health standards in some wells. DEQ shared these results with the homeowners that participated in the study. Read the full [Walla Walla Basin 2020 Groundwater Quality report](#).

3.2 Rogue Basin Water Quality Toxics Report

The DEQ laboratory recently released its report on water quality toxics in the Rogue Basin. The [Rogue Basin Toxics Summary](#) is the first comprehensive report about toxics sampling across waters flowing into the Rogue River, as well as the river itself. DEQ detected 152 of the nearly 500 possible chemicals included in the analysis of samples from water, sediment and fish tissue. The most commonly detected chemicals were arsenic, Diuron, and sulfamethoxazole – an antibiotic medicine used to treat bacterial infections – in water samples, DDT and PCBs in sediment samples, and PCBs and mercury in fish tissue samples. The report infographic is available on DEQ's webpage: [here](#).

4. Air Quality Division

4.1. Vehicle Inspection Program updates

In March 2020, the commission approved an order that allows people who needed a VIP certification for vehicle re-registration to, effectively, delay their vehicle inspection until December 2020, which aligned with a moratorium imposed by DMV for vehicle registrations. That initial order also provided authority to Director Whitman to issue subsequent orders or modify the March 2020 commission order to remain protective of DEQ staff at VIP stations and the public they serve. By the end of 2020, most customers who obtained these certificates have already returned for their test, and have expressed satisfaction with this option being available during the pandemic.

January 2021 ended the DMV's statutory moratorium on vehicle registrations, replaced by a more limited enforcement agreement for 2021. Recognizing that COVID-19 presents continued risk to public health, Director Whitman issued an updated order in late December 2020 that authorizes further delay of testing until a time at which risks are expected to have lessened. Requests made prior to March 31, 2021, enable people in need of a VIP certification to delay testing until June 30, 2021. Use of this order has been limited to date, but is an important action for continued protection of public health.

report that discusses responses to pandemic and wildfire emergencies in 2020, and provides updates regarding the DEQToo Program usage and potential next pathways. DEQ will provide that report to the commissioners when it is available, and welcomes the opportunity to meet with commissioners who are interested in VIP's operations.

4.2. Clean Vehicle Rebate Program disburses \$24 million in rebates for cleaner vehicles in Oregon

DEQ and its contractor, the Center for Sustainable Energy, continue to process rebate applications from private applicants and dealer-sponsored applicants for both the Standard rebate and the Charge Ahead rebate. To date, the Program has awarded nearly 9,800 rebates for a total savings to consumers of \$24 million. Almost 12 percent of the rebates were through the Charge Ahead portion of the program, which provides additional rebates for low- and moderate-income people leasing or purchasing a cleaner vehicle. This figure exceeds the program's goal, which is to have at least ten percent of the rebates be through the Charge Ahead program.

4.3. Permit Backlog Reductions in 2020

DEQ's Air Quality Division has started implementing its plan to reduce the permit renewal backlog to 10 percent by the end of fiscal year 2025. DEQ is using EPA's fiscal year, which runs October 1 through September 30 to align with DEQ's reporting requirements, and implementation began Oct. 1, 2020. In response to public health needs and COVID-19 restrictions, inspection schedules have been reduced for much of 2020, which allowed staff to shift their work to addressing the permit backlog. Between October 1 and December 31, staff issued 29 renewals of Standard and Simple ACDP permits and Title V permits. The yearly goal is 66 issued renewals, which puts us well on pace to that goal for this year.

4.4. EPA Actions

On Dec. 7, 2020, former EPA Administrator Andrew Wheeler announced the agency's final decision to retain the existing National Ambient Air Quality Standards for fine particulate matter, also known as PM_{2.5}, despite overwhelming evidence indicating that EPA should have strengthened the standard. Oregon DEQ and Health Authority submitted extensive comments to

the EPA during the rulemaking supporting a more stringent and protective standard. The Biden Administration has identified this decision as one of many that it will review and may revise.

EPA also finalized a rule that it asserted will “strengthen the transparency of its significant regulatory actions and influential scientific information” by requiring the agency to give greater weight to scientific studies whose underlying dose-response data are “available in a manner sufficient for independent validation.” The final rule, entitled “Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information,” was signed by former EPA Administrator Andrew Wheeler on December 20, 2020 and published in the Federal Register on January 6, 2021. This rule also is being reviewed and may be revised or withdrawn by the Biden administration.

EPA also published in the Federal Register (85 Fed. Reg. 87,256) former EPA Administrator Andrew Wheeler’s final action setting forth his decision to retain, without revision, the current 70-parts-per billion National Ambient Air Quality Standards (NAAQS) for ozone set in 2015. This final action, which was announced on December 23, 2020, took effect immediately upon publication in the Federal Register. Again, this action is being reviewed and may be changed by the Biden Administration.

On December 9, 2020 EPA finalized a rule that governs how the agency calculates costs and benefits for rules promulgated under the Clean Air Act. While most EPA rules are effective 60 days after their final adoption, this rule took effect immediately. DEQ objected to this rule in comments submitted to EPA and, again, this action will be reviewed and may be withdrawn or revised by EPA. The new rule expands the cost side of the equation and prevents appropriate consideration of benefits, which could prevent future regulatory actions that would otherwise be deemed as necessary to ensure protection of human health and the environment.

5. Land Quality Division

5.1. Materials Management Program: Nearly \$600,000 awarded in grant funding

In January, the Materials Management program awarded \$595,167 in grant funding to 17 projects across the state. The program received a record 83 applications, a 37 percent increase from the previous year. These grants help recipients reduce the environmental impacts of materials at all stages of their lifecycle, supports communities, and strengthens local economies. This year, in light of the massive disruptions caused by COVID-19 and in acknowledgment of the critical need to support historically marginalized communities, DEQ prioritized projects that address these issues.

Projects ranged widely across the state, including: educating historically marginalized youth in Portland about the environmental impacts of textiles; supporting a lending library in Salem where residents can borrow garden tools, electronics, and musical instruments as opposed to buying new; and supporting a staff position in Wallowa County to strengthen local recycling efforts.

5.2. Environmental Cleanup Program: New Internal Management Directive for Tribal Engagement and Cultural Resource Protection at Cleanup Sites

On Dec. 31, 2020, DEQ's Cleanup Program finalized and released a new internal management directive that covers tribal engagement and the protection of cultural resources at cleanup sites. This IMD, entitled *Tribal Engagement and Cultural Resource Protection at Cleanup Sites*, serves as an update to DEQ's *Guidance for Protecting Cultural Resources during Cleanup Work (2007)*. Objectives include consulting with Oregon State Historic Preservation Office and appropriate tribal governments at key project stages to promote the protection of cultural resources by DEQ and Responsible Parties. Review of the document was coordinated with tribal coordinators and DEQ Cleanup staff statewide.

This directive helps implement the agency Tribal Relations Policy, which commits to building positive relationships with tribal leaders, managers, staff and representatives to understand tribal interests, explore opportunities for greater partnership and collaboration, and address tribal interests as much as possible in DEQ actions.

5.3. Environmental Cleanup Program: Prospective Purchaser Agreements

Participation and interest in the Prospective Purchaser Agreement program remains at an all-time high. Construction is considered an essential activity during COVID-19 restrictions, and interest rates are at historic lows, leading to numerous inquiries and a dozen new PPAs in the pipeline. DEQ staff are working on PPAs that support important economic and community redevelopment efforts in Eugene and Salem; cleanup and repurposing of legacy industrial complexes in St. Helens and Milwaukie; repurposing an abandoned forest products facility in Lyons; redevelopment of a closed landfill in Oregon City; completion of remediation and supporting reuse of dry-cleaning facilities in NW and SE Portland; and protecting urban neighborhoods from blighted lots by enabling infill development and redevelopment in residential and commercial areas.

In addition, there are several sites covered by PPAs that are in an implementation phase. These include the Blue Heron Mill property in Oregon City acquired by the Confederated Tribes of the Grand Ronde, which is being preserved and developed in conjunction with the Willamette Falls

Legacy Project. In addition, the United States Postal Service property on Hoyt Street in downtown Portland acquired by the Portland Development Commission (now Prosper Portland) is being developed through the public-private partnership Broadway Corridor Project.

DEQ staff are also engaged in planning and negotiations on other major sites that have been in the cleanup program for some time, including the McCormick and Baxter and the Time Oil Company properties in Portland. For both of these sites, successful remediation and site reuse will be contingent on the prospective purchasers successfully negotiating both federal PPAs with EPA and state PPAs with DEQ. Many of these PPA projects involve fairly complex legal, policy and technical issues and are excellent examples of DEQ applying its statutory criteria to collaborative processes.

5.4. Hazardous Waste and Tanks Program: Pollution Prevention Internships

The Oregon Applied Sustainability Experience ([OASE](#)) internship program has finished its fourth year connecting junior and senior-year college and university student interns to businesses across Oregon for 10 weeks. In 2020, eight students were trained and placed within businesses in Eugene, Portland, and Port Orford to conduct a pollution prevention research project identified by the businesses. In addition, three businesses explored becoming Safer Choice certified, an EPA designation for products that are less toxic or otherwise better alternatives to chemicals in current use.

Highlights from 2020 include:

- Tofurky's intern was awarded the "National Pollution Prevention Roundtable Student of the Year" award and presented her project findings at two national conferences.
- Pacific Seafood's intern secured a job within the company for their project findings and recommendations.
- Port Orford Sustainable Seafood's intern was hired through the end of the year.
- Providence Healthcare's intern presented at a national EPA conference.
- [Defunkify](#), a 2020 Host, won EPA's "Safer Choice 2020 Partner of the Year" for their commitment to developing products with safer chemical ingredients.
- Boeing's 2019 intern won the "2020 National American Hazardous Materials Management Association Public/Private partnership" award for his project.

Looking ahead, the intern program will continue in partnership with Oregon Sea Grant for another year as DEQ obtained a 2021-22 EPA Pollution Prevention Grant. DEQ continues to evaluate ways to expand the program, including a pilot project for a yearlong fellowship, rather than solely 10-week internship opportunities.

6. Eastern Region

6.1. Boise Cascade (Elgin)

DEQ and BCE are continuing to work in the context of settlement discussion to outline a clear plan for this plywood facility to operate in 2021 (and beyond). Most recently, BCE has asked that this work include a sediment removal plan for the wastewater lagoons that are an important part of the facility's operation.

6.2. \$1.8M EPA grant for woodstove alternatives to improve air quality in Klamath Falls (Klamath County)

EPA awarded a \$1.8 million Targeted Airshed Grant to DEQ, Klamath County Public Health, South Central Oregon Economic Development District and Oregon Tech to support ongoing efforts to improve air quality and protect community health in Klamath Falls. Grant funds will be used to reduce harmful air pollution from wood smoke through a range of programs, including woodstove change-out and home weatherization that will improve heating efficiency and reduce heating costs for residents. The Klamath Falls community experiences high levels of harmful fine particle or PM_{2.5} emissions during the winter months, primarily due to smoke from residential woodstoves. Replacing woodstoves with non-wood burning devices such as gas inserts, furnaces and ductless heat pumps reduces emissions and improves air quality.

7. Northwest Region

7.1. Astoria Marine Construction Company (Astoria)

The Astoria Marine Construction Company, AMCCO, manufactured and repaired wooden-hulled fishing and ferryboats, tugboats and yachts beginning in 1924. During World War II, the shipyard expanded operations for construction of military vessels. During the Korean and Vietnam wars, the company built wooden-hulled minesweepers and submarine chasers and refurbished older warships. During the peak production period from 1940 to 1960, the facility employed more than 400 full-time workers. In the 1960s, work for the U.S. Navy decreased and operations transitioned to fishing and tugboat repair. After 1985, business primarily involved repairs of fishing boats.

EPA conducted environmental investigations in the early 2000s on and around the AMCCO site. Investigations found contamination in soil and nearby riverbed sediment in the Lewis and Clark River near the mouth of the Columbia River. Based on those findings, EPA initiated efforts to place the facility on the National Priorities List to guide cleanup under EPA's Superfund

program. In 2012, an agreement deferred the site listing and EPA transferred site management to DEQ.

In coordination with AMCCO, tribal governments and a community advisory group, DEQ selected the cleanup remedy in 2017. These groups also agreed upon a natural resource restoration plan to satisfy conditions of EPA's deferral agreement. AMCCO completed all major remedy construction activities during the spring and summer of 2020. These included demolition of onsite buildings and structures; excavation of contaminated sediments and upland hot spots; and regrading and capping of the upland area. Work on the river levee will be completed in 2021 at which point DEQ will issue a certification of completion documenting that terms of the 2018 settlement agreement between AMCCO and DEQ have been met.

7.2. NW Metals: New Location on Columbia Boulevard (Portland)

DEQ continues follow-up work on the NW Metals facility in Northeast Portland. Multiple programs are involved. At DEQ's request, the Multnomah County Circuit Court ordered NW Metals to cease operation of their metals shredder on March 4, 2020, as part of a preliminary injunction we pursued to bring the facility into compliance after exhausting our regulatory options through our civil enforcement process. The judge ordered NW Metals to obtain an air quality permit from DEQ before being allowed to operate the shredder.

To date, NW Metals also still has outstanding compliance issues associated with water quality, solid waste and environmental cleanup activities at the NE Killingsworth Street site. These requirements were also a part of the court order/preliminary injunction.

NW Metals intends to operate at a new site, in an area of north Portland along Columbia Boulevard. This location is characterized primarily by other industrial uses. The nearest residential areas are substantially further away than the prior location in northeast Portland, which was near residential areas and a school. DEQ issued a public notice for NW Metals' draft Air Contaminant Discharge permit on Nov. 6, 2020, and held two public hearings in December 2020. Following the second public hearing, multiple people requested an extension of the public comment period, which was scheduled to close January 8. DEQ extended the public comment period by 30 days to Feb. 8, 2021.

NW Metals challenged the comment period extension in court and requested authorization to use its shredder before issuance of the air quality permit. That request was denied on Jan. 14, 2021. However, the judge also ruled that the injunction would expire at 5 p.m. on March 25, 2021, or when DEQ acts on the permit application, whichever comes first.

7.3. Portland Gas Manufacturing Site Cleanup (Portland)

NW Natural, a responsible party for the former Portland Gas Manufacturing site on the Willamette River, began work in July 2020 to clean up contaminated sediment at the site near downtown Portland. This work addressed historical contamination resulting from gas manufacturing operations along the west bank of the river from the mid-1800s to early 1900s.

As of October 2020, the cleanup team has completed this work according to the approved cleanup plan. In total, the team removed over 7,000 tons of contaminated sediment and debris. NW Natural is in the process of finalizing its construction completion report, which will provide a record to DEQ of all the work that was completed. Afterwards, NW Natural must monitor the river bottom long-term to confirm the effectiveness of the cleanup work and natural recovery process.

7.4. Willamette Cove Cleanup Plan (Portland)

The Willamette Cove property stretches 3,000 feet along the northeast bank of the Willamette River in the St. Johns area. The property is owned by Metro, and Metro is proposing to clean up the property along with other partners and use it as a park. The property has a history of development and industrial use spanning over 100 years. Soil contamination throughout the approximately 20-acre site exceeds acceptable levels for both human health and ecology, including elevated levels of contamination, called hot spots, for dioxins and furans, metals, PAHs and PCBs.

The cleanup plan for the property must be approved by DEQ. The Port of Portland, former owner and operator on the site, is proposing to excavate and dispose of soils offsite that have been classified as contamination hot spots (whether for humans or for ecological risk). The Port will consolidate any remaining contamination above risk-based levels under an engineered cap. This cleanup work follows an early removal action in 2005-2006, when the Port removed soils identified as contamination hot spots for human health risk.

The Port will implement cleanup of the riverbank and in-water area working with EPA as part of the Portland Harbor Superfund Site. A six-month public comment period on the proposed cleanup plan for the Willamette Cove Upland closed Aug. 31, 2020, and DEQ is currently in the process of reviewing and responding to comments. DEQ plans to approve a final cleanup plan, officially called a Record of Decision, in early 2021.

On Dec. 10, 2020, Metro voted unanimously in support of a resolution to make Willamette Cove eligible for funding through the 2019 parks and natural areas bond measure. The resolution also includes an amendment requiring Metro to convene a work session within 30 days of DEQ's

issuance of the ROD. Based on the outcome of that workshop, which may consider more active uses of the property that warrant a higher degree of cleanup and resulting changes in future use that the Port and Metro may desire, DEQ will evaluate and determine whether a ROD amendment is necessary.

7.5. Zenith Energy (Portland)

Zenith Energy, an oil-shipping terminal in Northwest Portland, applied for 1200-C construction stormwater permit coverage in 2020 for construction work planned at the facility. DEQ has not evaluated the permit application because the Land Use Compatibility Statement submitted to DEQ is not complete. Recently, Willamette Riverkeeper and Columbia Riverkeeper have given notice that they intend to sue Zenith under the federal Clean Water Act, based on allegations that Zenith carried out construction activities at the site without 1200-C permit coverage. DEQ is investigating those claims. Recently, DEQ also has determined that the Land Use Compatibility Statement submitted by Zenith in connection with its air permits must be updated due to significant changes in facility operations.

8. Western Region

8.1. Wildfire Recovery Activities

As described for the December 2020 EQC meeting, the Natural and Cultural Resources Recovery Task Force, is providing coordination and implementation for the state's recovery response to the catastrophic wildfires in September 2020 in terms of damage to these resources. The Task Force also serves as the coordination and implementation mechanism for State Recovery Function 7, as defined within the March 2018 Oregon Disaster Recovery Plan and discussed in the Dec. 3, 2020 EQC Director's report.

Since December 2020, the Task Force has convened a tribal work group to ensure that there is a venue for tribal engagement on the assessments completed for multiple fires to ensure that tribal priorities and concerns are identified in a timely way. In addition to this new work group, the Task Force has assisted in assessments for recovery activities in the near and mid-term.

The Erosion Threat Assessment and Reduction Team, or ETART, assessed the risk of flooding, debris flows, and erosion to state and private lands after September's wildfires, focusing on the Riverside, Beachie Creek, Holiday Farm and Archie fire areas. The ETART rapid-assessment approach is modeled after the U.S. Forest Service's BAER assessments, which cover these same issues on federal lands. These assessments look at specific resource areas and make recommendations to mitigate these post-fire risks based on their analysis and conclusions. The

resource areas include hydrology, soil resources, cultural resources, water quality, hazard trees, geohazards, engineering/roads, aquatic and wildlife resources, and botany resources. Each resource specialist team helps to identify values (such as critical infrastructure), risks to those values (such as risk to life and safety or risk to property), and recommendations to reduce that risk (such as through use of safety measures like early warning systems or road closures, or if possible, by upgrading infrastructure or mulching/seeding efforts). These findings are all compiled into multiple reports that inform communities of vulnerabilities in their area. The ETART reports were finalized in early January and issued Jan. 11, 2021.

Now that the reports are finalized, the assessment sub-group will compile recommended actions and coordinate with the tribal work group to ensure interested tribes have a chance to weigh in on the recommended actions. Another sub-group is working on identifying funding resources for this type of work, to match priority actions with known and potential funding sources going forward.

Another important aspect of the fire recovery process is a new potable water task force that Oregon Emergency Management has established in response to the numerous drinking water issues that cut across various recovery functions. DEQ and Oregon Health Authority are leading that task force.

Finally, in the area of debris management, Phase 1 work to remove household hazardous materials is essentially complete. This work was carried out by contractors working through the federal Environmental Protection Agency, with assistance from DEQ. Phase 2 work, to remove household fire debris and hazard trees along public roads, is currently underway. That work is being done by contractors, working for the Oregon Department of Transportation, with assistance from DEQ in addressing property access issues, asbestos issues, and waste management and disposal issues.

8.2. Jordan Cove/Pembina

On Jan. 19, 2021, the Federal Energy Regulatory Commission (FERC) issued an order denying a request from Pembina/Jordan Cove that FERC declare that DEQ had waived its authority to determine whether the activities authorized by FERC licenses for the LNG terminal and associated pipeline will comply with Oregon's federally-approved water quality standards.

Water quality certifications are specific to the activities authorized by particular federal agency permits or other authorizations. DEQ denied certification for permits from the US Army Corps of Engineers for this project, in May 2019. The Army Corps permits (which are still pending

with the Corps) would authorize dredging and wetland/stream fills for the LNG terminal, the Coos Bay navigational channel, and the proposed pipeline.

DEQ never acted on a certification for FERC's two authorizations (licenses for the construction and operation of the LNG terminal, and the pipeline) because Jordan Cove/Pembina never applied for certification (as FERC agreed in its order). Jordan Cove could still apply for these certifications. However, DEQ urged Jordan Cove to do so eighteen months ago and, to date, the company has failed to do so.

9. Oregon Environmental Protection Act

DEQ's Issue Tracker document is included as Attachment B to this report. There are no supplemental reports or recommendations for commission action at this time; however, DEQ intends to present to the commission on three federal rule changes as part of the March 2021 regular EQC meeting.

BIDEN-HARRIS TRANSITION

FOR IMMEDIATE RELEASE

January 20, 2021

FACT SHEET: LIST OF AGENCY ACTIONS FOR REVIEW

*Actions Address the COVID-19 Pandemic, Provide Economic Relief, Tackle
Climate Change, and Advance Racial Equity*

This is a non-exclusive list of agency actions that heads of the relevant agencies will review in accordance with the Executive Order: "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis." Additional agency actions also will be reviewed to determine consistency with Section 1 of the Executive Order.

*Note that actions published in the January 20 Federal Register will be added to this list
on January 20.*

COUNCIL ON ENVIRONMENTAL QUALITY

1. "Guidance Document Procedures," 86 Fed. Reg. 1279 (January 8, 2021).
2. "Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act," 85 Fed. Reg. 43304 (July 16, 2020).

U.S. DEPARTMENT OF AGRICULTURE

1. "Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska," 85 Fed. Reg. 68688 (October 29, 2020).

U.S. DEPARTMENT OF COMMERCE

1. "Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico," 86 Fed. Reg. 5322 (January 19, 2021).
 2. "Endangered and Threatened Wildlife and Plants; Regulations for Listing
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Endangered and Threatened Species and Designating Critical Habitat," 85 Fed. Reg. 81411 (December 16, 2020).

3. National Oceanic and Atmospheric Administration, [Biological Opinion on Long Term Operation of the Central Valley Project and the State Water Project](#) (October 21, 2019).
4. "Endangered and Threatened Wildlife and Plants; Regulations for Listing Species and Designating Critical Habitat," 84 Fed. Reg. 45020 (August 27, 2019).
5. "Endangered and Threatened Wildlife and Plants; Regulations for Interagency Cooperation," 84 Fed. Reg. 44976 (August 27, 2019).

U.S. DEPARTMENT OF DEFENSE

1. "Reissuance and Modification of Nationwide Permits," 86 Fed. Reg. 2744 (January 13, 2021).
2. "The Navigable Waters Protection Rule: Definition of 'Waters of the United States,'" 85 Fed. Reg. 22250 (April 21, 2020).

U.S. DEPARTMENT OF ENERGY

1. "Energy Conservation Program: Energy Conservation Standards for Small Electric Motors," 86 Fed. Reg. 4885 (January 19, 2021).
2. "Energy Conservation Program: Establishment of New Product Classes for Residential Clothes Washers and Consumer Clothes Dryers," 85 Fed. Reg. 81359 (December 16, 2020).
3. "Test Procedure Interim Waiver Process," 85 Fed. Reg. 79802 (December 11, 2020).
4. "Energy Conservation Program: Establishment of a New Product Class for Residential Dishwashers," 85 Fed. Reg. 68723 (October 30, 2020).
5. "Energy Conservation Program for Appliance Standards: Procedures for Evaluating Statutory Factors for Use in New or Revised Energy Conservation Standards," 85 Fed. Reg. 50937 (August 19, 2020).
6. "Energy Conservation Program for Appliance Standards: Procedures for Use in New or Revised Energy Conservation Standards and Test Procedures for Consumer

Products and Commercial/Industrial Equipment," 85 Fed. Reg. 8626 (February 14, 2020).

7. "Energy Conservation Program: Energy Conservation Standards," 85 Fed. Reg. 1378 (January 10, 2020).
8. "Energy Conservation Program: Energy Conservation Standards for General Service Incandescent Lamps," 84 Fed. Reg. 71626 (December 27, 2019).
9. "Final Determination Regarding Energy Efficiency Improvements in the 2018 International Energy Conservation Code (IECC)," 84 Fed. Reg. 67435 (December 10, 2019).
10. "Final Determination Regarding Energy Efficiency Improvements in ANSI/ASHRAE/IES Standard 90.1-2016: Energy Standard for Buildings, Except Low-Rise Residential Buildings," 83 Fed. Reg. 8463 (February 27, 2018).

U.S. ENVIRONMENTAL PROTECTION AGENCY

1. "Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984," 86 Fed. Reg. 5013 (January 19, 2021).
2. "National Primary Drinking Water Regulations: Lead and Copper Rule Revisions," 86 Fed. Reg. 4198 (January 15, 2021).
3. "Pollutant-Specific Significant Contribution Finding for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units, and Process for Determining Significance of Other New Source Performance Standards Source Categories," 86 Fed. Reg. 2542 (January 13, 2021).
4. "Control of Air Pollution From Airplanes and Airplane Engines: GHG Emission Standards and Test Procedures," 86 Fed. Reg. 2136 (January 11, 2021).
5. "Review of Dust-Lead Post Abatement Clearance Levels," 86 Fed. Reg. 983 (January 7, 2021).
6. "Hexachlorobutadiene (HCBd); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)," 86 Fed. Reg. 922 (January 6, 2021).

7. "Pentachlorothiophenol (PCTP); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)," 86 Fed. Reg. 911 (January 6, 2021).
8. "Phenol, Isopropylated Phosphate (3:1) (PIP 3:1); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)," 86 Fed. Reg. 894 (January 6, 2021).
9. "Decabromodiphenyl Ether (DecaBDE); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)," 86 Fed. Reg. 880 (January 6, 2021).
10. "2,4,6-tris(tert-butyl)phenol (2,4,6-TTBP); Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)," 86 Fed. Reg. 866 (January 6, 2021).
11. "Strengthening Transparency in Pivotal Science Underlying Significant Regulatory Actions and Influential Scientific Information," 86 Fed. Reg. 469 (January 6, 2021).
12. "Review of the Ozone National Ambient Air Quality Standards," 85 Fed. Reg. 87256 (December 31, 2020).
13. "Increasing Consistency and Transparency in Considering Benefits and Costs in the Clean Air Act Rulemaking Process," 85 Fed. Reg. 84130 (December 23, 2020).
14. "Review of the National Ambient Air Quality Standards for Particulate Matter," 85 Fed. Reg. 82684 (December 18, 2020).
15. "Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act," 85 Fed. Reg. 73854 (November 19, 2020).
16. "Hazardous and Solid Waste Management System: Disposal of CCR; A Holistic Approach to Closure Part B: Alternate Demonstration for Unlined Surface Impoundments," 85 Fed. Reg. 72506 (November 12, 2020).
17. "NPDES Electronic Reporting Rule—Phase 2 Extension," 85 Fed. Reg. 69189 (November 2, 2020).
18. "Pesticides; Agricultural Worker Protection Standard; Revision of the Application Exclusion Zone Requirements," 85 Fed. Reg. 68760 (October 30, 2020).
19. "EPA Guidance; Administrative Procedures for Issuance and Public Petitions," 85

- Fed. Reg. 66230 (October 19, 2020).
20. "Steam Electric Reconsideration Rule," 85 Fed. Reg. 64650 (October 13, 2020).
 21. U.S. Environmental Protection Agency, [Memorandum Regarding Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans](#) (October 9, 2020).
 22. "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Reconsideration," 85 Fed. Reg. 57398 (September 15, 2020).
 23. "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review," 85 Fed. Reg. 57018 (September 14, 2020).
 24. "Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residuals From Electric Utilities; A Holistic Approach to Closure Part A: Deadline To Initiate Closure," 85 Fed. Reg. 53516 (August 28, 2020).
 25. "Streamlining Procedures for Permit Appeals," 85 Fed. Reg. 51650 (August 21, 2020).
 26. "Drinking Water: Final Action on Perchlorate," 85 Fed. Reg. 43990 (July 21, 2020).
 27. "Clean Water Act Section 401 Certification Rule," 85 Fed. Reg. 42210 (July 13, 2020).
 28. "Methylene Chloride (MC); Final Toxic Substances Control Act (TSCA) Risk Evaluation; Notice of Availability," 85 Fed. Reg. 37942 (June 24, 2020).
 29. "National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Finding and Residual Risk and Technology Review," 85 Fed. Reg. 31286 (May 22, 2020).
 30. "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks," 85 Fed. Reg. 24174 (April 30, 2020).
 31. "The Navigable Waters Protection Rule: Definition of 'Waters of the United States,'" 85 Fed. Reg. 22250 (April 21, 2020).
 32. "Air Plan Approval; Texas; Dallas-Fort Worth Area Redesignation and Maintenance Plan for Revoked Ozone National Ambient Air Quality Standards," 85 Fed. Reg. 19096 (April 6, 2020).

33. "Protection of Stratospheric Ozone: Revisions to the Refrigerant Management Program's Extension to Substitutes," 85 Fed. Reg. 14150 (March 11, 2020).
34. "On-Site Civil Inspection Procedures," 85 Fed. Reg. 12224 (March 2, 2020).
35. "Air Plan Approval; Texas; Houston-Galveston-Brazoria Area Redesignation and Maintenance Plan for Revoked Ozone National Ambient Air Quality Standards; Section 185 Fee Program," 85 Fed. Reg. 8411 (February 14, 2020).
36. "Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act," 84 Fed. Reg. 69834 (December 19, 2019).
37. U.S. Environmental Protection Agency, [Evaluation of Maryland's Phase III Watershed Implementation Plan \(WIP\)](#) (December 19, 2019).
38. "Findings of Failure To Submit a Clean Air Act Section 110 State Implementation Plan for Interstate Transport for the 2015 Ozone National Ambient Air Quality Standards (NAAQS)," 84 Fed. Reg. 66612 (December 5, 2019).
39. "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program," 84 Fed. Reg. 51310 (September 27, 2019).
40. "Adopting Requirements in Emission Guidelines for Municipal Solid Waste Landfills," 84 Fed. Reg. 44547 (August 26, 2019).
41. "Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)," 84 Fed. Reg. 36728 (July 29, 2019).
42. "Chlorpyrifos; Final Order Denying Objections to March 2017 Petition Denial Order," 84 Fed. Reg. 35555 (July 24, 2019).
43. "Review of the Dust-Lead Hazard Standards and the Definition of Lead-Based Paint," 84 Fed. Reg. 32632 (July 9, 2019).
44. "Repeal of the Clean Power Plan; Emission Guidelines for Greenhouse Gas Emissions From Existing Electric Utility Generating Units; Revisions to Emission Guidelines Implementing Regulations," 84 Fed. Reg. 32520 (July 8, 2019).
45. "Methylene Chloride; Regulation of Paint and Coating Removal for Consumer Use Under TSCA Section 6(a)," 84 Fed. Reg. 11420 (March 27, 2019).
46. "Hazardous and Solid Waste Management System: Disposal of Coal Combustion

Residuals From Electric Utilities; Amendments to the National Minimum Criteria (Phase One, Part One)," 83 Fed. Reg. 36435 (July 30, 2018).

47. "Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry," 83 Fed. Reg. 7556 (February 21, 2018).
48. "Procedures for Chemical Risk Evaluation Under the Amended Toxic Substances Control Act," 82 Fed. Reg. 33726 (July 20, 2017).

U.S. DEPARTMENT OF JUSTICE

1. "Prohibition on Settlement Payments to Non-Governmental Third Parties," 85 Fed. Reg. 81409 (December 16, 2020).

U.S. DEPARTMENT OF THE INTERIOR

1. "Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Northern Spotted Owl," 86 Fed. Reg. 4820 (January 15, 2021).
2. U.S. Department of the Interior, [National Greater Sage-Grouse Land Use Planning Page](#) (NEPA No. DOI-BLM-WO-WO2100-2017-0003-RMP-EIS) (last updated January 11, 2021).
3. "Regulations Governing Take of Migratory Birds," 86 Fed. Reg. 1134 (January 7, 2021).
4. "Endangered and Threatened Wildlife and Plants; Regulations for Designating Critical Habitat," 85 Fed. Reg. 82376 (December 18, 2020).
5. "Forest Management Decision Protest Process and Timber Sale Administration," 85 Fed. Reg. 82359 (December 18, 2020).
6. "Endangered and Threatened Wildlife and Plants; 12-Month Finding for the Monarch Butterfly," 85 Fed. Reg. 81813 (December 17, 2020).
7. "Endangered and Threatened Wildlife and Plants; Regulations for Listing Endangered and Threatened Species and Designating Critical Habitat," 85 Fed. Reg. 81411 (December 16, 2020).
8. "Notice of Availability of the Proposed Resource Management Plan and Final Environmental Impact Statement for the Bering Sea-Western Interior Planning

- Area, Alaska," 85 Fed. Reg. 78350 (December 4, 2020).
9. "Endangered and Threatened Wildlife and Plants; Eleven Species Not Warranted for Listing as Endangered or Threatened Species," 85 Fed. Reg. 78029 (December 3, 2020).
 10. "Endangered and Threatened Wildlife and Plants; Removing the Gray Wolf (*Canis lupus*) From the List of Endangered and Threatened Wildlife," 85 Fed. Reg. 69778 (November 3, 2020).
 11. "Notice of Availability of the Record of Decision for the Proposed Willow Master Development Plan Project, Alaska," 85 Fed. Reg. 69351 (November 2, 2020).
 12. "Procedures for Issuing Guidance Documents," 85 Fed. Reg. 67666 (October 26, 2020).
 13. "Alaska; Hunting and Trapping in National Preserves," 85 Fed. Reg. 35181 (June 9, 2020).
 14. U.S. Department of the Interior, [M-37056: Status of Mineral Ownership Underlying the Missouri River within the Boundaries of the Fort Berthold Indian Reservation](#) (North Dakota) (May 26, 2020).
 15. "National Environmental Policy Act Implementing Procedures for the Bureau of Land Management (516 DM 11)," 85 Fed. Reg. 25472 (May 1, 2020).
 16. U.S. Department of the Interior, [M-37055: Withdrawal of Solicitor's Opinion M-37029, "The Meaning of 'Under Federal Jurisdiction' for Purposes of the Indian Reorganization Act"](#) (March 9, 2020).
 17. U.S. Department of the Interior, [Guidance Regarding Application of the Coastal Barrier Resources Act to Non-Structural Projects for Shoreline Stabilization](#) (November 4, 2019).
 18. U.S. Fish and Wildlife Service, [Biological Opinion for the Reinitiation of Consultation on the Coordinated Operations of the Central Valley Project and State Water Project](#) (October 21, 2019).
 19. "Endangered and Threatened Wildlife and Plants; Regulations for Listing Species and Designating Critical Habitat," 84 Fed. Reg. 45020 (August 27, 2019).
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20. "Endangered and Threatened Wildlife and Plants; Regulations for Interagency Cooperation," 84 Fed. Reg. 44976 (August 27, 2019).
21. "Oil and Gas and Sulfur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control Revisions," 84 Fed. Reg. 21908 (May 15, 2019).
22. "Notice of Availability of Record of Decision and Approved Resource Management Plan Amendment for Greater Sage-Grouse Conservation, Northwest Colorado," 84 Fed. Reg. 10327 (March 20, 2019).
23. "Notice of Availability of Record of Decision and Approved Resource Management Plan Amendment for Greater Sage-Grouse Conservation, Idaho," 84 Fed. Reg. 10325 (March 20, 2019).
24. "Notice of Availability of Record of Decision and Approved Resource Management Plan Amendment for Greater Sage-Grouse Conservation, Oregon," 84 Fed. Reg. 10324 (March 20, 2019).
25. "Notice of Availability of Record of Decision and Approved Resource Management Plan Amendment for Greater Sage-Grouse Conservation, Nevada and Northeastern California," 84 Fed. Reg. 10323 (March 20, 2019).
26. "Notice of Availability of Record of Decision and Approved Resource Management Plan Amendment for Greater Sage-Grouse Conservation, Wyoming," 84 Fed. Reg. 10322 (March 20, 2019).
27. "Waste Prevention, Production Subject to Royalties, and Resource Conservation; Rescission or Revision of Certain Requirements," 83 Fed. Reg. 49184 (September 28, 2018).
28. U.S. Department of the Interior, [Instruction Memorandum No. 2018-034: Updating Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews](#) (January 31, 2018).
29. "Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands; Rescission of a 2015 Rule," 82 Fed. Reg. 61924 (December 29, 2017).
30. U.S. Department of the Interior, [M-37050: The Migratory Bird Treaty Act Does Not Prohibit Incidental Take](#) (December 22, 2017).

31. U.S. Department of the Interior, [Order No. 3348: Concerning the Federal Coal Moratorium](#) (March 29, 2017).

U.S. DEPARTMENT OF LABOR

1. "Financial Factors in Selecting Plan Investments," 85 Fed. Reg. 72846 (November 13, 2020).

U.S. DEPARTMENT OF TRANSPORTATION

1. "Hazardous Materials: Liquefied Natural Gas by Rail," 85 Fed. Reg. 44994 (July 24, 2020).
2. "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks," 85 Fed. Reg. 24174 (April 30, 2020).
3. "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program," 84 Fed. Reg. 51310 (September 27, 2019).

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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	<p>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”).</p> <p>On November 19, 2020, EPA published a final rule replacing this policy to allow the source to reclassify as an area source after it reduces its emissions below the threshold.</p>	<p>The new rule will become effective on January 19, 2021.</p> <p><i>The EQC will receive a report at its March 2021 meeting.</i></p>
<p>GHG Emissions from Power plants</p> <p><i>Formerly Clean Power Plan, now Affordable Clean Energy Plan</i></p>	<p>EPA released the final ACE Rule in June 2019. The final rule:</p> <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. 	<p>The new rule became effective Sept. 6, 2019.</p> <p><i>EQC received a report Nov 14, 2019.</i></p> <p>Note: There is pending litigation associated with this rule.</p>

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. The rule was published November 24, 2020</p>	<p>This final rule will be effective 60 days after it is published in the federal register.</p> <p><i>The EQC will receive a report at its March 2021 meeting.</i></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> <p>There is pending litigation associated with these rules going into effect</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>

Topic	Brief Description	Next Important Action
Ozone National Ambient Air Quality Standards	<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 December 31, 2020, the EPA published a final rule retaining the current NAAQS for ozone, finding “that the current primary standard is requisite to protect public health, including the health of at-risk populations, with an adequate margin of safety, and should be retained, without revision.” The rule is effective immediately.</p>	<p><i>Since the current standard was retained, no report to the EQC is necessary.</i></p>
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.	<p>DEQ joined multistate coalition challenging rule Oct. 25, 2019. Also seeking to enforce court order separately.</p> <p>Note: There is pending litigation associated with this rule.</p>
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.	<p>EPA decision on whether to repeal the standards.</p> <p>Note: There is pending litigation associated with this rule.</p>

Topic	Brief Description	Next Important Action
<p>Limitations on Use of Hydrofluorocarbons as Refrigerant Replacement of Ozone-Depleting Substances</p>	<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. DEQ joined multistate coalition to challenge the guidance as an illegally promulgated rule.</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.</p> <p>In December 2020, Congress included language that would phase down production and consumption of HFCs 85% by 2036 in the year-end omnibus bill.</p>	<p>Note: There is pending litigation associated with this rule.</p>
<p>Wood Stove Emission Standards</p>	<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 proposed 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>	<p>Step 2 requirements are now effective.</p>

Topic	Brief Description	Next Important Action
<p>Heavy-duty Truck “Glider Kit” Rule</p>	<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>	<p>Waiting on EPA decision on proposed rules.</p>

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
<p>Waters of the United States</p>	<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>
<p>401 Certifications Rulemaking</p>	<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 went into effect on December 14, 2020.</p> <p><i>The EQC will receive a report at its March 2021 meeting.</i></p>