State of Oregon

Department of Environmental Quality Memorandum

Date: May 18, 2023

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Item B: Director's Report (Informational)

May 18-19, 2023, EQC meeting

1.0. Director's Office

1.1. Diversity, Equity and Inclusion Work

On May 25, 2023, it will be three years since the brutal murder of George Floyd. This unspeakable act was a turning point for many in the country and this includes DEQ. It is unfortunate that it took an act as heinous as a murder of a Black man by those in power to be the call to action when so many calls to action have presented before this one. We have a responsibility as humans and public servants to make sure we do whatever we can to fix the oppressive systems within our sphere of influence to better the lives that are not represented by the dominant culture. DEQ aspires to be an antiracist organization and has started the hard work that must be done to reach that aspiration. This work requires relationships to be built, trust to be earned, harm to be brought forward, restorative conversations to occur, accountability throughout the agency, including with those in leadership. As an agency we all must work together to center our work around those most harmed and develop and implement changes that improve our internal culture and the work we do for people in Oregon.

In December 2021, DEQ entered into a contract with Engage to Change (ETC) to support the agency's work related to Diversity, Equity, and Inclusion (DEI) within the agency. The contract has three distinct areas of focus: consulting, facilitation, and training.

The following is a breakdown of ETC's work within these areas:

- 1. Consulting
 - a. Organizational Assessment (OA) In December of 2021 DEQ entered into the initial work order for ETC to perform an organizational assessment. The origin of the OA stems from the 21-23 AFSCME contract. Some of the components expected in the OA include hiring practices, employee retention, microaggressions, leadership structure, manager practices and accountability, Human Resources (HR) practices, manager and HR training, employee training, and employee awareness. As part of the OA, the agency will work with ETC to

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implement a system of identifying and addressing microaggressions at the agency by June 30, 2023.

The consultant will provide their full evaluation and recommendations to the agency, which will be shared with all staff within thirty (30) calendar days of receiving final recommendations. The agency and DEI Council will provide a formal response to ETC's evaluation and recommendations. The agency will work with the consultant and the DEI Council to implement recommendations and provide quarterly updates to the Labor Management Committee.

A draft OA is due to the agency by the end of May. The OA will inform many other efforts like the affirmative action plan, recruitment and retention plan, DEI plan and DEI training plan.

- b. Strategic Planning In late May 2022, DEQ entered into the initial work order to assist the agency in the development of a strategic plan. The governor has an expectation that all agencies will have a strategic plan aligning goals outlined by the governor's office by June 1, 2024. The agency's strategic plan will be centered on being an antiracist organization. Much of the DEQ's work with ETC, including the OA, will inform the strategic plan.
- 2. Facilitation To date, ETC has facilitated meetings with the Cleanup Program around organizational culture and anti-racism. Ongoing efforts in this area are under discussion. This part of the contract is open to other programs and teams to utilize as requested.

3. Training

- a. Performance management training for managers -In order to ensure the agency's performance review procedure is implemented consistently and with the intent of DEQ's performance management system, online training will be required for managers. The trainings include diversity, equity, inclusion and implicit bias. All new managers will take this training within ninety (90) days of hire and it will be assigned to current managers biennially. Four different trainings with three sessions each have been provided by ETC to managers.
- b. <u>DEI Council and Leadership Team Training series</u> The council and leadership have been working through approximately 20 hours of training sessions with ETC. The groups have been in training separately using similar content.

This work with ETC is helping to equip the agency and its people to center our work and decision-making structures in principles of anti-racism. At the enterprise level, there are also expectations of all agencies, including having DEI plans and Affirmative Action plans.

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DEI Plan – To assist agencies in developing a DEI plan, the governor's office posed five questions to help the agency develop a project plan, including a projected timeline. Answers are due by June 1, 2023 and leadership has been considering these questions along with requested input from the DEI Council. Given there is likely overlap between the strategic plan and the DEI plan, some agencies are looking at combining them.

The five questions are:

- a. Who are the key partners involved in developing your plan?
- b. What are the steps required to complete development of your plan?
- c. What are the barriers/challenges impacting the development of your plan?
- d. What key strategies and focus areas will your plan address?
- e. When will your DEQ Plan be completed?
- 2. <u>Affirmative Action Plan</u> The agency recently finalized and submitted its 23-24 affirmative action plan. It is expected that there will be updates to the affirmative action plan once the agency has time to review Organizational Assessment and develop actions based on the recommendations of that assessment. While the DEI plan and the Affirmative Action Plan are different, they should be congruent.

2.0. Air Quality

2.1. EPA Proposes Multipollutant Light and Medium Duty Vehicle rules and Phase 3 Heavy Duty GHG rules

On April 27, EPA proposed two rules, the Multipollutant Light- and Medium-Duty Vehicle which would set new, more stringent emissions standards for criteria pollutants and greenhouse gases (GHG) for light-duty vehicles and Class 2b and 3 ("medium-duty") vehicles that would phase-in over model years (MY) 2027 through 2032, and the Phase 3 Heavy-Duty GHG that would set new GHG standards for heavy-duty highway vehicles starting in MY 2028 through MY 2032 and revise certain GHG standards for MY 2027 that were established previously under EPA's Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2 rule ("HD GHG Phase 2"). The public comment period for both rules will start after the rules are published in the Federal register. DEQ's air quality staff are reviewing the proposed rules and evaluating how the rules relate or compare to those the EQC recently adopted on Advanced Clean Cars II and Advanced Clean Trucks / Low NOx Omnibus rules under Section 177 of the Clean Air Act.

2.2. DEQ Completes Biannual Review and Announces Next Round of Diesel Emissions Mitigation Funding

The Diesel Emissions Mitigations program conducts a biannual review of the program to share information about the status of the program to date, invite public engagement, and consider

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improvements as needed. The team met with interested parties on March 14, 2023 and are considering how to make future improvements for the 2024 grant cycle.

On April 3, the Diesel Emissions Mitigation team announced the availability of the 2023 round of grant funding of approximately \$8 million. Fleets with eligible vehicles may apply through DEQ's Web Grants platform. The team will accept applications through June 6, score applications and announce awards by Aug. 15. More information on the opportunity may be found on the <u>Diesel Emissions Mitigation Grants webpage here</u>.

2.3. Launch of the Charge Ahead Pre-Approval Process for OCVRP

The Oregon Clean Vehicle Rebate program launched its new pre-approval process for Charge-Ahead applicants on March 28, 2023, allowing applicants to have their income verified by DEQ partners at the Oregon Department of Revenue and Charge-Ahead eligibility confirmed by program staff before the applicant purchases a vehicle. This new process removes one of the major obstacles faced by charge-ahead applicants and allows them to transfer the rebate to a dealer at the time of vehicle purchase, similar to how the Standard Rebate works within the OCVRP. To date, the program has received 168 applications and issued 95 vouchers.

2.4. Oregon Clean Vehicles Rebate Program Suspension Implementation Update

The OCVRP suspension began on May 1, 2023. The program has completed extensive outreach to dealers, the charge-ahead community, and the public through press releases and direct contact through two outreach and engagement contractors. Program staff have been working with the Center for Sustainable Energy, the contractor who processes rebate applications for the program, to plan and coordinate suspension activities. Applicants who purchase an eligible vehicle before May 1, 2023, are able to apply for their rebate up to six months after the purchase date. Purchases made during the suspension period are not eligible for a rebate. The program will keep the dealerships and the public informed on the status of the program as the agency processes backlogged applications on the expected reopening of the program when funding is replenished.

3.0. Land Quality

3.1. Clean Up Program

DEQ's Environmental Cleanup Program is updating how vapor intrusion at cleanup sites is evaluated to be consistent with the U.S. Environmental Protection Agency's guidance and current screening levels. This is the first update since 2010. DEQ recognizes that this may be a significant change for many of our sites and will provide training. The change to vapor intrusion RBCs and the guidance will increase confidence that cleanup decisions are based on the latest science and protective of human health and the environment.

Beginning in June 2023, DEQ will use risk-based concentrations, or RBCs, that match EPA's vapor intrusion screening levels, including lowering the soil vapor and groundwater screening levels. Additionally, soil RBCs for vapor intrusion will be removed because soil has been shown

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to be an unreliable method for screening out this pathway at a site. The updated RBCs will be available at the end of May. DEQ will provide a full update to the 2010 Vapor Intrusion Guidance and training sessions to help implement these changes. DEQ will host the first public virtual presentation on May 22, 2023.

<u>Visit DEQ's webpage on Vapor Intrusion Risk-Based Concentrations Screening Levels for more information.</u>

3.2. Hazardous Waste: Materials Management and Hazardous Waste Programs: Work with DAS to Develop Statewide Price Agreement for Hazardous Waste Management
The Department of Administrative Services is developing a request for proposals to support public entities in disposing of hazardous waste. The need for this was highlighted last year when DEQ received many requests for assistance on how best to dispose of hand sanitizer. Businesses, schools, and other organizations across Oregon acquired large amounts of hand sanitizer during the COVID-19 pandemic. Much of that hand sanitizer began expiring in 2022. Hand sanitizer generally has a high alcohol content making it an ignitable hazardous waste when discarded. Many public entities, such as schools and state agencies, suddenly were regulated hazardous waste generators with no experience in meeting the complex Resource Conversation and Recovery Act requirements. Previous statewide hazardous waste management agreements have been available only for non-Resource Conversation and Recovery Act (RCRA) hazardous waste, i.e., household hazardous waste and for waste produced by very small quantity generators.

The new agreement will provide access to vetted hazardous waste management services to any public entity in Oregon regardless of their hazardous waste generator status. The scope of the contract is very large and multiple vendors will be needed. Currently, DAS is forming an Evaluation Committee ahead of posting the Request for Proposal, or RFP. The committee will consist of four to five members representing public entities such as state agencies and local governments. The committee's tasks are to review and score proposals submitted to DAS, as well as negotiate with respondents. More information on this process can be found at www.oregon.gov/das/OPM/Pages/proposal.aspx.

3.3. Materials Management Program

3.3.1. Update: Recycling Modernization Act

Oregon's Recycling Modernization Act will improve recycling systems in communities across Oregon by requiring producers of packaging, paper products, and food serviceware to share responsibility for an effective and responsible recycling system. While leveraging the resources of producers and their producer responsibility organizations, the RMA maintains roles and responsibilities for local governments, service providers, commingled recycling processing facilities, and DEQ. A new Recycling Council advises DEQ and the producer responsibility organizations on key recycling system elements.

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Three prospective Producer Responsibility Organizations (PROs) have publicly announced their intent to submit program plans. Contact information is posted at RecyclingAct.Oregon.gov. PROs must submit program plans by March 2024 for Recycling Council review and DEQ approval.

Many recycling system changes will start in July 2025. DEQ staff are working hard to prepare by engaging Oregon communities and other partners and conducting studies and assessments, as well as two rulemaking processes. The public comment period will open in late May or early June for the first rulemaking, which addresses PRO obligations, local government compensation, and the recycling acceptance lists. DEQ plans to bring proposed rules to the November 2023 EQC meeting. The second rulemaking process will launch in the summer of 2023 and is slated to wrap up in the fall of 2024.

3.3.2. The White House and DEQ's Materials Management Program

Several DEQ staff recently met with staff from the Council on Environmental Quality to discuss upcoming federal government actions to reduce the impacts of plastic pollution. Abby Boudouris, Nicole Portley and David Allaway shared information about DEQ's packaging attributes research, multiple DEQ LCAs (bottled water, kegs, milk dispensers), and elements of the Recycling Modernization Act and efforts to reduce plastic use and leakage of plastics into the environment from Oregon's recycling system. Council staff expressed their admiration for DEQ's research and policy leadership on these topics. This conversation stemmed from a presentation Nicole shared in March at a national Plastics Summit convened by the World Wildlife Fund. Thanks for proudly representing DEQ and Materials Management in such an important way.

3.3.3. Food Waste Prevention Week

The 2023 Food Waste Prevention Week, April 10 to 16, was a great success, with over 500 partners globally. DEQ staff Elaine Blatt, Jerin Dinkins, Katie Romano, Jennifer Flynt and Susan Mills prepared materials for partners statewide and supported a communications strategy encouraging all people in Oregon to take simple steps to reduce waste, save money and help the environment. Oregon had the third largest number of Food Waste Prevention Week partners after Florida (the originator of the week) and Tennessee (the first state to sign on with Florida). These partners included local government agencies, solid waste facilities, non-profit organizations, community-based organizations, and schools – many of which held independent food waste prevention events. The national campaign uses branding developed as part of DEQ's Bad Apple campaign.

3.3.4. Mattress Stewardship Program Update

The Materials Management Program intends to bring proposed rules for the Mattress Stewardship Program to the Commission in July 2023.

The Mattress Stewardship Act, or SB 1576 (2022), establishes a statewide system for the financing, collection, and environmentally sound management of discarded mattresses. This new

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program will include collection sites and events located conveniently around the state, funded by a flat fee on each mattress sold. A stewardship organization will operate the program and must submit a plan to DEQ for approval by Oct. 1, 2023. This plan will provide details regarding how the program will work, as required in statute. After approval of a plan, entities who wish to sell mattresses in Oregon must be registered with the stewardship organization. DEQ will provide administrative oversight to ensure the stewardship organization is in compliance with statutory requirements.

The proposed rules, if adopted will:

- Establish an annual fee paid by a stewardship organization to DEQ
- Delegate authority to DEQ for enforcement actions
- Clarify a stewardship organization's annual reporting requirements
- Outline which changes to a program plan require a stewardship organization to notify DEQ
- Detail the information a stewardship organization must include on its website

Throughout the rulemaking process, DEQ has kept the public informed and engaged through the Mattress Stewardship Rulemaking page. The public comment period for this rulemaking ran from March 29 to April 28, 2023. A public hearing on April 19 had 16 participants in attendance. Commenters were generally supportive of this new program, and some provided suggestions to modify the proposed rules. DEQ will provide a summary of comments received and agency response in the rule packet submitted to the Commission prior to the July 2023 EQC meeting.

4.0. Water Quality

4.1. 1200-Z Industrial Stormwater Permit Correction 2023: Rulemaking Amendment On March 25, 2021, the commission adopted the 1200-Z industrial stormwater general permit renewal into regulation by reference. In late 2022, DEQ became aware that the permit inadvertently omitted a clause from the permit renewal that has been in previous versions since 2007. This omission has inadvertently created two contradictory permit requirements and has a substantive effect on permit holders.

This rulemaking amendment will remedy the 1200-Z permit to meet the 2021 rule adoption intent. In short, it will ensure that where permit registrants' stormwater monitoring data has demonstrated compliance with monitoring waiver criteria, they will not be required to install additional treatment.

Without the rule amendment, permit registrants that have been granted a monitoring waiver and only have one sample result exceeding the permit's pollutant benchmarks would be required to install treatment. This is contrary to the permit's escalating tiered corrective action response to a single sample event.

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The 1200-Z industrial stormwater permit has approximately 900 facilities with permit coverage across Oregon. The types of facilities are primarily based on the Standard Industrial Classification code that ranges from food processors to ports that have industrial activities that come into contact or have the potential to come into contact with stormwater.

The public comment period for this rule amendment is open from late April through early June 2023. A virtual public hearing, including an informational presentation followed by a question-and-answer session, is scheduled for June 6, 2022. Based on public input, DEQ intends to propose the 1200-Z industrial stormwater general permit minor correction to the Commission in July 2023.

4.2. Integrated Water Resources Strategy Update

The inter-agency project team distributed a survey to agency staff and managers so all of DEQ's water quality professionals could contribute to the IWRS update. The agency survey results will be analyzed and discussed by the project team in May. Oregon's Kitchen Table, housed at Portland State University's National Policy Consensus Center, is leading the IWRS update public engagement meetings at seven locations across the state from May 11 through June 8, 2023, with an emphasis on reaching people who have not traditionally contributed to Oregon's decisions about water. Oregon's Kitchen Table will also be conducting a public survey in May and June. The agency and public input will inform the drafting of the updated IWRS over the summer. The draft IWRS update document will then be distributed for public review and comment in the fall. More information about the IWRS update can be found here: https://www.oregon.gov/owrd/programs/Planning/IWRS/Pages/default.aspx

4.4 Clean Water State Revolving Fund

The Clean Water State Revolving Fund program incorporated the Bipartisan Infrastructure Law into Oregon's CWSRF program. With new principal forgiveness limits, environmental justice metrics, and updates to the affordability criteria, the program will be able to issue more below market rate loans to more communities including historically underserved and disadvantaged communities.

Previously, the program could provide principal forgiveness of 50% of a loan up to \$500,000, but now that amount of principal forgiveness has been increased to 50% of a loan up to \$2,000,000 and will apply to new applicants from April 2023 moving forward. The program is now able to offer principal forgiveness for planning loans with 100% principal forgiveness up to \$100,000, which incentivizes financing for planning to address this significant need statewide.

This is an exciting time for the CWSRF program and will result in more funding for more communities than the program has been able to provide in previous years. In addition, more communities in Oregon will be eligible for principal forgiveness based on new affordability criteria with environmental justice metrics. The City of Joseph, a current CWSRF borrower is an example of a community that was not previously eligible for principal forgiveness but is now eligible under new metrics for principal forgiveness.

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These program updates along with increased limits for principal forgiveness will result in more affordable financing for more communities for water quality and infrastructure improvements in Oregon over the next five years of BIL implementation and in the long term.

5.0. Eastern Region

5.1. WOF PNW Threemile Project LLC (Boardman)

After reviewing and responding to public comments, DEQ on April 4 issued an air quality permit modification for WOF PNW Threemile Project LLC, a bioenergy facility at Threemile Canyon Farms near Boardman. The permit regulates emissions from WOF PNW's manure digester, methane gas treatment system, biosolids dryer, and engines that produce electricity on-site. The permit does not cover emissions from the dairy itself. Currently, dairies and confined animal feeding operations in Oregon are only required to obtain an air permit for operating certain manure digesters that produce biogas. The modification increases emission limits for fine particulate matter, carbon monoxide and greenhouse gases, and reduce emissions limits for large particulate matter, sulfur dioxide and volatile organic compounds. All other emission limits remain the same as the previous permit.

5.2. Alkali Lake Chemical Waste Disposal Site (Lake County)

DEQ has begun coordinating with EPA Region 10 and regional stakeholders on additional cleanup investigation at this site. An EPA consent order with Bayer will require conducting a CERCLA RI/FS under the Superfund Alternative Process. DEQ and EPA staff met with Lake County commissioners and community members on April 5 to discuss plans for future work. EPA and DEQ are working on a regulatory coordination plan and access agreements. Site visits and fieldwork are anticipated to begin this spring or summer.

5.3. AmeriTies Fire and Spill (Wasco County)

On April 9, a fire and subsequent explosion from a partially empty diesel and copper napthanate tank occurred at the AmeriTies plant in The Dalles. While the fire outside of the tank was put out the prior evening, an ongoing fire within the tank itself continued to burn and smolder most of the day. In late afternoon, a decision was made to apply foam to extinguish the fire. DEQ and EPA provided support to fire personnel and conducted air quality monitoring at the plant and surrounding community and there were little to no detections of concern noted.

5.5. Lower Umatilla Basin Groundwater Management Area (northern Morrow and Umatilla counties)

DEQ continues to collaborate with the Oregon Health Authority, Oregon Department of Agriculture, U.S. EPA, Morrow and Umatilla counties, and members of the Local Advisory Committee to address nitrate contamination and drinking water issues in the area. DEQ also continues settlement talks with the Port of Morrow and Lamb Weston for penalties DEQ issued last year for overapplication of wastewater to agricultural fields in the basin.

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6.0. Western Region

6.1. Benton County Talks Trash

The final meeting of the Benton County Talks Trash (BCTT) group regarding the future of Coffin Butte Landfill took place earlier this month and concluded without a clear mandate. We expect Republic (landfill operator) to re-apply for a Conditional Use Permit authorizing the expansion, but it is not clear how Benton County will respond. If land use is approved a solid waste permit modification application will follow. Regardless of the outcome of expansion plans we expect that Coffin Butte Landfill will have considerably more public interest and opposition in the next few years than it has had in the past.

6.2. Georgia Pacific Toledo

Georgia Pacific Toledo plans to expand their landfill into a portion of their wastewater treatment settling pond. The ponds are at capacity due to sludge accumulation over the decades. The proposed sludge landfill is on the banks of the Yaquina River. The facility recently applied for an expansion and DEQ noted several missing pieces of information which we expect to be completed shortly.

6.3. JH Baxter

The Active Bethel Community held a meeting at Peterson Barn on April 22, 2023. Staff from DEQ, OHA and LRAPA attended, with the primary discussion around the OHA Health Assessment. DEQ staff answered community questions about the proposed removal action for properties and the ongoing sampling to understand the extent of contamination near the Baxter facility.

6.4. Wildfire Recovery: Homes for Good

Homes for Good submitted a water quality assessment and an incomplete WPCF-OS application for their site at Lazy Days Mobile Home Park. This is a phased development: The current application is for under 5,000 GPD but includes a system with capacity for about 6,200 GPD. Homes for Good is requesting a permit for the lower level of flows and intends to apply in late summer to revise the permit for 6,200 GPD. The higher level of flows would require Three Basin review procedures in late summer. DEQ has prioritized review of this application due to affordable housing and wild fire recovery benefits. Onsite Program's senior wastewater specialist is working with DEQ's hydrogeologists and the applicants on the application.

6.5. Roseburg Forest Products Dillard New Melamine Decorative Laminate Line

Roseburg Forest Products is proposing a new facility at their Dillard location and applied for a permit in March 2023. Western Region staff are working through the details with the facility and their consultants to receive information and determine appropriate conditions for the draft permit.

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7.0. Laboratory

7.1. Air Quality Index

The Air Quality Index is officially in the "cloud." This will provide surge capacity for increased web / app traffic during high smoke events thus providing stability for the application to be available when needed most. The AQI provides both an interactive website as well as the OregonAir phone app.

7.2. 2023 Wildfire Trends Report

The lab recently released the <u>2023 Wildfire Trends Report available online here</u>. The key finding is that poor air quality resulting from wildfire smoke continues its upward trend during the summer months in Oregon. Notable in 2022 was the Cedar Creek fire near Oakridge which caused a near-record number of days of hazardous air quality in parts of Lane County. Prevailing winds also blew the smoke into Central Oregon, giving Bend a high number of days when the air was unhealthy for sensitive groups or worse.

The report provides the number of days each year that an airshed is in an Air Quality Index, or AQI, of Unhealthy for Sensitive Groups, Unhealthy, Very Unhealthy, and Hazardous health levels from wildfire smoke. The trends stretch from 1999 to present for most areas but go back to the mid 1980's for Klamath Falls, Medford, and Portland. The wildfire smoke health data indicates that most areas are experiencing a higher frequency and magnitude of smoke impacts than prior to 2015. The report was initially created around 2018 because news agencies and government officials wanted to put each year's smoke impacts into historical context. DEQ's Lab is interested in updating the report annually. The scope was limited to a few decades this year due to limited monitoring data.

7.3. Air Toxics Summary Report

The lab recently released the Air Toxics Summary Report. The report summarizes air toxics monitoring data for 107 air toxics at nine locations around the state from 2019 to 2021. DEQ classifies these air toxics into four groups: metals, volatile organic compounds (VOCs), polycyclic aromatic hydrocarbons (PAHs) and carbonyls. The nine monitoring locations in the report are in the Portland metro area (four), Eugene (two), Medford (one), Bend (one), and La Grande (one). The Portland Humboldt School and La Grande site are EPA-funded NATTS (National Air Toxics Trend Sites) sites. An annual rotating site, that moves after gathering one year of data, was located at Eugene Amazon Park for this report. The other six sites are Oregon funded trend sites located in Portland (three), Eugene (one), Medford (one), and Bend (one). The report also includes information about how monitoring is performed and how results are analyzed.

To understand the results, compare the average annual concentration of an air toxic to an ambient benchmark concentration (ABC). By doing this, it's possible to compare air toxics against each other to see which may be most impactful for cancer risk or other health effects (chronic and

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acute). Analyzing the results shows that levels of air toxics in Oregon are similar to the national average. And while there is a slight excess cancer risk for combined levels found at each site, this risk is generally considered low. View the full Air Toxics Summaries, 2019-2021 here.

Non-discrimination statement

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