

State of Oregon

Department of Environmental Quality Memorandum

Date: March 19, 2024

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Agenda item B, Informational item: Director's Report
March 21-22, 2024, EQC meeting

1.0 Director's Office

1.1 Climate Pollution Reduction Grant Program Update

On Feb. 29, 2024, DEQ submitted Oregon's Priority Climate Action Plan to the U.S. Environmental Protection Agency. Staff have previously informed the Environmental Quality Commission of EPA's Climate Pollution Reduction Grant program for distributing significant amounts of federal funds under the Inflation Reduction Act. The program requires a two-step process, and DEQ's submittal of the Priority Climate Action Plan is a big milestone in the first step, which is for states, tribes and metropolitan areas to develop plans for how to reduce greenhouse gas emissions in their jurisdictions.

DEQ's action plan outlines key ways in which Oregon can reduce GHG emissions in the near term. EPA is especially interested in near-term emission reductions for the second part of their grant program process, which is to award over \$4.5 billion nationally to states, local jurisdictions and Tribes to implement the measures identified in the action plans that were submitted to EPA. The measures in the action plan define the parameters of DEQ's implementation funds applications. The measures identified in DEQ's plan fall into three broad categories:

1. **Transportation:** Oregon's largest sector of emissions, which consists of several programs at DEQ, including Charge Ahead EV rebates, funds for Medium- and Heavy-Duty EVs, and funding for charging infrastructure.
2. **Buildings:** These are programs to improve the efficiency of how we construct and heat our residential and commercial buildings, including weatherization and highly efficient appliances such as electric heat pumps. These programs are not directly implemented by DEQ, but by other state entities like Energy Trust, and Oregon Housing and Community Services.
3. **Materials Management:** There are several measures that DEQ's Materials Management programs would implement, including funding for additional equipment at landfills to capture methane, and programs to work with local jurisdictions to reduce food waste.

Applications to compete for implementation funds are due to EPA on April 1, 2024. DEQ plans to submit an umbrella application for Oregon for the measures in the three categories.

Thank you to the many organizations and jurisdictions, the Department of Energy and the Governor's Office who contributed to the plan.

1.2 Clean Fuels Rulemaking Update

DEQ is beginning a new rulemaking within the Clean Fuels Program. This effort is fairly narrow in scope and focused on technical updates. There are not significant policy matters under consideration, as was the case in recent rulemakings for this program. The new rulemaking will keep the program aligned with other states like California that have similar programs and will assure the program recognizes the latest science in lifecycle accounting for transportation fuels, which is at the core of this program.

2.0 Air Quality

2.1 Revisions to PM_{2.5} National Ambient Air Quality Standards

On Feb. 6, 2024, EPA Administrator Michael Regan approved the revision of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter, changing the annual standard from 12 $\mu\text{g}/\text{m}^3$ to 9 $\mu\text{g}/\text{m}^3$. The daily and secondary standards were not revised and the form of the annual standard (PM_{2.5}) remains the same. The NAAQS are set based on public health studies, and EPA, based on recommendations from the Clean Air Science Advisory Committee. They determined that additional public health protections were needed through a revised annual standard. Based on the same public health studies, EPA also lowered the thresholds for the scale used in the Air Quality Index, meaning that some days that used to show green will now show as yellow on the index. The revised standard takes effect 60 days after it's published in the Federal Register. EPA has not announced a timeline for that publication, but typically this occurs within a few weeks after the Administrator's signature date.

Over the next several years, DEQ will conduct various tasks to implement the revised standard. Most immediately, DEQ will update its Air Quality Index applications to incorporate changes made by EPA. DEQ is drafting a fact sheet on these changes. DEQ will also need to determine if airsheds in Oregon are meeting the revised standard and make an attainment designation recommendation to EPA within a year after the standard's publication. At this time, with wildfire smoke impacts removed, all monitored areas in Oregon are below the revised NAAQS. However, there are some communities that are near the NAAQS and at risk of non-attainment. DEQ will work with those communities to put together plans to maintain attainment. EPA will make their decision on the attainment status of areas one year after the state's recommendation and with the most recent air quality data. This means that communities must remain vigilant and continue to implement their PM reduction programs, like woodstove curtailment and replacement programs and outdoor burning restrictions. DEQ will continue to provide communities with technical support and guidance as they implement these programs.

2.2 Regional Haze State Implementation Plan

On Feb. 23, 2024, EPA published a proposed approval in the Federal Register of Oregon's Regional Haze Plan for the second implementation period. The proposal states that, "The Oregon submission addressed the requirements that states must periodically revise their long-term strategies for making reasonable progress towards the national goal of preventing future, and remedying an existing, anthropogenic impairment of visibility, including regional haze, in mandatory Class I Federal areas." EPA is accepting comments on the proposed approval until March 25, 2024. The EQC adopted the revised Regional Haze Plan on Feb. 3, 2022, and DEQ has been implementing the revised plan while EPA reviewed the state's implementation plan. DEQ will complete a required five-year review of the implementation of the revised plan, as required by the Federal regional haze rules for submittal to EPA in early 2025. DEQ will begin planning for the third implementation period in 2025.

2.3 Oregon Clean Vehicle Rebate Program

The Oregon Clean Vehicle Rebate Program was temporarily suspended on May 1, 2023, due to program participation outpacing allocated funding. The program received its first funding disbursement for 2024 and is currently processing rebate checks for those on the 2023 waiting list. As of Feb. 29, 2024, there are about 250 wait listed applicants remaining. All 2023 waiting list rebate checks will be processed in advance of the reopening.

The program anticipates reopening in early April 2024. Upon reopening, Charge Ahead rebates for low- and moderate-income applicants will be prioritized until a 20% Charge Ahead funding allocation is reached. Standard rebates will continue to be processed during this time, but applications may experience longer wait times. Charge Ahead applicants will be able to prequalify prior to program opening, which would allow them to purchase or lease at the point of sale. The response to the Charge Ahead Prequalification application has been positive and DEQ has received over 200 applications as of March 1, 2024. Additionally, the rebate program staff and engagement contractors have been presenting at outreach events, reaching out to interested parties, and engaging with the media to prepare for the program reopening.

2.4 Diesel Mitigation Program

On Feb. 1, 2024, DEQ's Diesel Emissions Mitigation program announced its latest round of approximately \$8 million in competitive grant funding to address Oregon's older and more polluting diesel equipment. Funds can be used to retire old equipment and purchase new, zero-emissions and lower emissions replacements as well as install exhaust control filters. As in 2023, this grant opportunity will also serve to receive applications for funding under the federal Diesel Emissions Reduction Act program that the agency administers. DEQ will accept grant applications through May 30, 2024, and will provide technical assistance for all interested parties at dieselgrants@deq.oregon.gov.

This is the fourth of five expected grant opportunities offered through the Diesel Emissions Mitigation Program. In 2023, the program received 69 applications totaling more than \$35 million in requests for the \$8 million available. The projects selected for the 2023 funding ranged from the Beaverton School District replacing two diesel-fueled school buses with two new electric-powered buses to retiring two non-road excavators in Gresham with two new diesel diggers that include PM 2.5 and NOx emissions controls. The awarded projects are expected to remove more than 33 tons of harmful air pollution, including nitrogen oxide and fine particulate matter, from Oregon's air. DEQ expects a similar response to this grant opportunity for 2024, showcasing the need for additional diesel emissions mitigation and reduction opportunities.

2.5 Community Air Action Planning Program

EPA awarded DEQ a grant in December 2022 to conduct community-level air monitoring in four communities across the state. The Air Quality Division is using the community-level air monitoring grant to support the design and testing of Community Air Action Planning. CAAP is a community-led air quality improvement pilot program focused on partnering with environmental justice communities experiencing air quality challenges.

From November 2023 through January 2024, the CAAP team established a Co-Design Group of external partners to develop the framework of the program. The Co-Design members are a diverse group that represent state government agencies (e.g. ODOT, DLCD), local government (e.g. Lane County Public Health Department, City of Portland), research organizations (e.g. Oregon Health and Science University, Open AQ), community-based organizations (e.g. Rosewood Initiative, Verde) and advocacy groups (e.g.

Coalitions of Communities of Color, Beyond Toxics).

The CAAP team will use the Co-Design Group's guidance to select four pilot communities for air monitoring based on identified environmental justice principles. The CAAP team anticipates selecting the four pilot communities in April and May 2024.

The EPA grant provided the CAAP team with funds to purchase community-scale air quality monitoring equipment. The CAAP team has purchased the monitoring equipment – 44 Purple Air monitors, five micro aethalometers and five weather stations. The CAAP team is developing quality assurance procedural protocols aligned with EPA standards so DEQ will be able to use the equipment in communities.

DEQ will continue to provide updates on this effort as the program moves forward.

2.6 Lane Regional Air Protection Agency Action Items for May EQC Meeting

Lane Regional Air Protection Agency, or LRAPA, is a local air quality authority for Lane County. The Clean Air Act allows the establishment of local air authorities that function similar to state air quality agencies; they adopt rules, issues permits, run ambient monitors, and establish plans within their region. Air quality regulations adopted by LRAPA must be at least as stringent as state rules, and any changes that would impact the state implementation plan for Oregon must be approved by the EQC before being sent to EPA for review. DEQ provides technical assistance to LRAPA on rule development, reviews the rules for consistency and makes a recommendation to the EQC who approves or denies the rules. LRAPA will be bringing two actions to the commission for review in May 2024, a revision to LRAPA's open burning rules and revisions to LRAPA's permitting rules to align with DEQ's permitting rule changes in 2023. Both will need to be incorporated into the state implementation plan.

Air Quality Permitting Rules

LRAPA is proposing revisions to existing rules primarily to address the new DEQ air quality regulations adopted by the commission on Nov. 18, 2022, which became effective March 1, 2023. Some of the proposed changes to existing rules would amend LRAPA's part of the Oregon Clean Air Act State Implementation Plan. LRAPA proposes to update, clarify, improve and streamline Lane County's air quality permit programs.

The revision process was characterized by an inclusive approach, involving public discussions at LRAPA Board meetings, a public review with LRAPA Citizens Advisory Committee, and an email notice to those who subscribe to receive LRAPA's public notices when the rulemaking was placed on public notice. DEQ also sent LRAPA notice using GovDelivery, and LRAPA directly emailed the notice to all Lane County sources holding Title V Operating Permits. In addition, a public hearing is slated for community input at LRAPA's April 11, 2024, Board meeting.

Title 47 Outdoor Burning Rules

To address changing community needs and meet environmental standards, LRAPA proposes to update the Title 47 Outdoor Burning Rules. These amendments introduce definitions found in DEQ's Chapter 340, Division 264, enhancing consistency with state regulations and a 2022 city ordinance adjustment in the City of Lowell, Oregon. Notably, the prohibition on outdoor burning within the city from Nov. 1 to Feb. 29 was lifted. Throughout this process, LRAPA engaged in consultations with both Lowell's City Administrator and Fire Chief, engaged in public discussion with LRAPA's Board of Directors and Citizens Advisory Committee, as well as provided email notices when the rulemaking was placed on

public notice. These efforts are in addition to a public process the City of Lowell underwent to enact its 2022 ordinance change, ensuring that these amendments reflect a balanced approach to outdoor burning practices. A public hearing is slated for March 2024, with the board's decision in the same month, and LRAPA anticipates seeking EQC's endorsement in May 2024, aiming for rules that balance air quality standards with local feedback.

3.0 Land Quality

3.1 Recycling Modernization Act Rulemaking

DEQ is currently mid-way through the second rulemaking process to implement the Plastic Pollution and Recycling Modernization Act (2021). As the current rulemaking process moves toward public comment in June 2024, DEQ is taking the opportunity to provide the commission with background on this consequential legislation, which will change the way people across Oregon manage their recycling. The recycling system change is scheduled to launch July 1, 2025.

The Recycling Modernization Act requires producers of packaging, printing and writing paper, and food serviceware to share the responsibility for building and maintaining a more resilient, equitable, and responsible recycling system in Oregon. The RMA will deliver one statewide recycling list, more recycling opportunities, improved education, reduced contamination, and funding for reuse and other upstream programs.

The EQC adopted the first set of administrative rules for the RMA at its [November 2023 meeting](#). The rules related to the obligations of the producer responsibility organization, local government compensation, and recycling acceptance lists. With these rules in place, a prospective PRO has the information needed to submit a program plan by the end of March 2024, as required by statute.

The [current rulemaking process](#) covers a broad set of topics, including:

- Recycling processor permitting standards and fees;
- Living wages and supportive benefits for recycling workers;
- Standards for evaluation and disclosure of environmental impacts;
- Reducing the upstream impact of packaging through reuse and other activities;
- Contamination evaluation and reduction; and
- Covered product exemptions.

DEQ aims to bring proposed rule language to the EQC for consideration in late fall, with an informational presentation to the commission in September. Adoption of the second set of rules will enable DEQ to approve a PRO program plan in advance of the July 1, 2025, launch date.

4.0 Water Quality

4.1 Extension of Total Dissolved Gas Water Quality Standard Modification on the Columbia River

In February 2020, the EQC adopted the *Order Approving a Modification to Oregon's Water Quality Standard for Total Dissolved Gas in the Columbia River Mainstem*, which allows for increased spill during the fish passage season, from April 1 through Aug. 31, in the four lower Columbia River dams to benefit conditions for salmonids. The order modifies the allowable total dissolved gas levels for five years, through 2024, and requires certain monitoring of fish and water quality conditions.

On Feb. 9, 2024, the U.S. Army Corps of Engineers sent a written request to DEQ to amend the total dissolved gas water quality standard modification order on the Columbia River to extend the period that the modification is applicable to one month earlier, beginning on March 1 rather than April 1, 2024, to allow for increased spill to benefit fish passage conditions for salmonids. These planned operations were agreed to as part of the Dec. 14, 2023, Memorandum of Understanding and a companion request to stay of litigation by the U.S. Government and the States of Washington, Oregon, the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Nez Perce Tribe. On Feb. 29, 2024, DEQ Director Feldon approved this request under the authority granted by the EQC in Section 4 of the *Order Approving a Modification to Oregon's Water Quality Standard for Total Dissolved Gas in the Columbia River Mainstem* (2020).

The Corps also requested an extension of the total dissolved gas water quality standard modification beyond the five-year term of the 2020 EQC Order (2020-2024 spill seasons). Because this request falls outside the term of the current order, this request cannot be granted at this time. DEQ staff are in early conversations with the Corps on a request for a new modification order to allow for implementation of the planned operations in the MOU beginning with the 2025 fish spill season.

5.0 Eastern Region

5.1 Klamath Basin Dam Removal

Klamath River Renewal Corporation is in the process of decommissioning and physically removing four hydroelectric dams on the Klamath River – three in California and one in Oregon – to achieve a free-flowing condition and functional fish passage. The J.C. Boyle Dam, eight miles southwest of Keno, Oregon completed drawdown on Feb. 16, 2024, and is expected to be fully removed by fall 2024. DEQ worked with Klamath River Renewal Corporation and other agencies to establish numerous management plans to minimize pollution from sediment erosion caused by dam removal and restoration activities.

5.2 Lower Umatilla Basin Groundwater Management Area

DEQ settled a penalty with Lamb Weston Hermiston for wastewater permit violations for \$143,400 on Feb. 14, 2024. The settlement includes corrective measures the facility is required to complete and provides an option for Lamb Weston to direct up to 80% of the penalty amount to a Supplemental Environmental Project that benefits human health and the environment. The facility has 45 days to submit an approvable project to DEQ or must pay the full penalty to the state's general fund. DEQ is also working to renew the facility's wastewater permit, which expired in December 2009 and is currently in administrative extension.

6.0 Northwest Region

6.1 North Portland Temporary Alternative Shelter Site

The City of Portland is working to develop a temporary alternative shelter site in North Portland near the Columbia Boulevard wastewater treatment plant. The site plan is for 71 RV spaces, 90 living pods and 143 cars serving an estimated 418 guests and 30 staff. Developing this site is a priority for the city and is connected to the state of emergency to address the public health and public safety crisis driven by fentanyl declared by the city, Multnomah County and the State of Oregon.

DEQ has been working with the city through the cleanup process to ensure future occupants and staff will be safe. Specifically, after evaluating the risk assessment, contaminated media management plan and

remedial action plan, DEQ will issue a decision about whether the City's remedial action plan is protective of human health and the environment at the site.

In addition to the cleanup nexus, DEQ is also evaluating a construction stormwater general permit application and a water permit application for managing sewage at the site.

6.2 Zenith Energy

Following the City of Portland's approval of a new land use compatibility statement for the Zenith Oil Terminal located in industrial Northwest Portland near the Linnton neighborhood and Willamette River, DEQ is preparing to share a draft air contaminant discharge permit with the public. DEQ will begin the formal public involvement process in April 2024, which will include a public notice, public comment period, public information meeting and public hearing.

Significant public attention and comments are expected because there is high community interest and engagement around all Zenith permitting actions, most specifically the air quality permit.

DEQ will share the specific public involvement details with the EQC once the timeline is confirmed.

7.0 Western Region

7.1 Lazy Days Facility Three Basin Rule

The Lazy Days RV and Mobile Home Park along the McKenzie River has an active application with DEQ for a Water Pollution Control Facility-Onsite System permit modification. The Lazy Days Park is continuing to rebuild following the 2020 wildfires. The application requests an increase from the current permit flow limits of 4,850 gallons per day to 6,100 gpd. Under the regulations known as the "Three Basin Rule," this increase in permitted flows triggers a process that includes EQC approval. The commission received an extensive briefing on the Three Basin Rule and associated processes at their May 2023 meeting.

This action item related to this specific permit modification is scheduled for the May EQC meeting. As part of this process, DEQ prepared the draft modification permit and held a 30-day public comment period. DEQ did not receive any comments.

8.0 Laboratory and Environmental Assessment Division

8.1 Release of Several Technical Reports

The Laboratory and Environmental Assessment Division is releasing several technical reports in March 2024. These reports are compiled from data collected by the laboratory's water and air monitoring programs. Details about each of the reports are listed below.

2022 Oregon Air Quality Monitoring Annual Report

This is a comprehensive air quality monitoring report for the most recent year in which data is available. It includes trends, annual [Air Quality Index](#) information and regulatory violation data. Oregon's ambient air quality was good in 2022, as communities experienced fewer days of poor air quality and less severe impacts compared to recent years. Smaller and fewer wildfires may explain most of this improvement, as related smoke is the primary cause of poor air quality throughout the year. Oakridge endured the poorest air quality due to its proximity to one large wildfire. DEQ also completed the SensOR project by installing the last three PM2.5 monitors (of 20) in McMinnville, Toledo and Woodburn. Read the full

report [here](#).

2022 Air Toxics Summary Report

The 2022 Air Toxics Summary Report provides analyses and insight into air toxics data that was collected in 2022. The report explains the health impacts of 107 different air toxics and highlights the toxics that are of the greatest concern, their long-term trends, and how they compare to levels found around the nation. In 2022, most air toxics concentrations continued to decrease or did not significantly change, and their excess cancer risks were below the U.S. average. While concentrations of acetaldehyde and benzene slightly increased, their risk levels were still lower than the U.S. average. Formaldehyde shared a similar trend but was the only air toxic with a risk level higher than the U.S. average.

DEQ and LRAPA also rotate some air monitoring sites yearly to gather new air toxics data. In 2022, DEQ monitored in Corvallis, and LRAPA started monitoring a second site in Eugene.

The report is expected in mid-March and will be available [here](#).

2023 Wildfire Smoke Trends and the Air Quality Index Report

Smoke from wildfires affects air quality across the state of Oregon during the fire season (May to September). The wildfire report summarizes how DEQ air quality monitoring for PM2.5 concentration is translated into the Air Quality Index categories and displays trends of AQI values that are unhealthy for sensitive groups or worse over the last several years. For 2023, the wildfire season saw substantial smoke impacts from fires in Oregon from east of Eugene and Springfield in Lane County, near the coast in Curry County, and near the Bull Run Reservoir in Clackamas County. Smoke from fires in Northern California, Washington near Spokane, and Canada also had a significant impact on Oregon communities. Although not as significant as some recent years, there were still long-lasting fires producing prolonged poor air quality ranging from unhealthy to sensitive groups to very unhealthy in communities across Oregon.

This report will be released at the end of March and will be available [here](#).

2023 Oregon Water Quality Index

The Oregon Water Quality Index, an assessment of statewide ambient water quality results for water years 2014-2023, shows 50 percent of sites in excellent or good status, 14 percent in fair and 36 percent in poor or very poor status for the statewide ambient monitoring network of 160 sites. Of the 158 locations where trend analysis could be completed, eight percent showed an improving trend in water quality, while 20 percent had a declining trend in water quality. These data are used to compile and report on the Legislative Key Performance Measure #nine for water quality. Read the full report [here](#).

Translation or other formats

[Español](#) | [한국어](#) | [繁體中文](#) | [Русский](#) | [Tiếng Việt](#) | [العربية](#)

800-452-4011 | TTY: 711 | deqinfo@deq.oregon.gov

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).