

State of Oregon

Department of Environmental Quality Memorandum

Date: Jan. 8, 2024

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Agenda item F, Informational item: Director's Report
Jan. 9-10, 2025, EQC meeting

1.0 Director's Office

1.1 Governor Kotek releases recommended budget

Governor Kotek released her recommended budget on Dec. 1, 2024. The budget reflects the Governor's continued commitment to housing, behavioral health, and early childhood education. Highlights of DEQ's Governors Budget include:

- In spite of limited General Fund relative to the increased costs of doing business, the budget avoids reductions to filled General Fund positions.
- The Governor's Budget includes essential fee increases for the Air Contaminant Discharge, Greenhouse Gas Reporting, and Water Quality programs.
- The Governor proposes new General Fund investments in DEQ's Water Quality program related to housing production and carbon sequestration.
- The Governor's Budget authorizes a bond sale to finance capital upgrades at DEQ's laboratory.

Full details on the Governor's Budget can be reviewed in the [Governor's Budget full narrative](#) (see page 127 for DEQ), and in this [fact sheet](#).

DEQ will present the Governor's Recommended Budget to the legislature during their 2025 session as they prepare the agency's Legislatively Adopted Budget.

2.0 Air Quality

2.1 U.S. Environmental Protection Agency grants California's waiver for the Advanced Clean Cars II Rule and the Heavy-Duty Low NOx Omnibus Rule

The EPA recently granted California a waiver to implement the Advanced Clean Cars II rule and the Heavy-Duty Low NOx Omnibus Rule. The Advanced Clean Cars II rule requires a phased transition to 100% zero-emission new passenger vehicles by 2035, and implementation of the rule begins with the 2026 model year. The Heavy-Duty Low NOx Omnibus Rule sets limits on nitrogen oxide emissions from heavy-duty trucks. Under the Clean Air Act, California is allowed to adopt emission standards that are stricter than federal regulations. To implement these standards, California must receive a waiver from the EPA. The waiver is important for Oregon and other Section 177 states that have adopted California's standards because it enables them to also enforce these regulations. The Environmental Quality

Commission adopted the Advanced Clean Cars II rule in 2022.

The commission adopted the Heavy-Duty Low NOx Omnibus rule in 2021, originally intended to be implemented beginning with engine model year 2024. In November 2023 the commission adopted a one-year delay, and in November 2024, adopted temporary rules to delay implementation until 2026.

2.2 Clean Heavy Duty Vehicle Grant

DEQ recently received a \$6.5 million grant under EPA's Clean Heavy Duty Vehicle Grant. The grant program, funded by the Inflation Reduction Act, supports the transition from diesel-powered heavy-duty vehicles to zero-emission alternatives. DEQ's funded grant will scrap and replace 26 diesel buses with zero emission all-electric school buses, install charging infrastructure to support electric bus charging, and provide workforce training. These buses will be sent to Beaverton, Reynolds, Portland, and Gresham school districts.

2.3 Dairy air emissions update

On Nov. 19, 2024, EPA released a new draft section of the [AP-42 Chapter 9 Section 4 - Livestock and Poultry Feed Operations](#) and included the associated emission model reports for animal feeding operations and volatile organic compound (VOC) emissions from animal sectors for review. AP-42 is a compilation of air emissions factors from stationary sources used by permitting authorities to determine applicable permitting requirements. The release of the draft AP-42 is the next step in EPA's work on the [National Air Emissions Monitoring Study of Confined Animal Feeding Operations](#). EPA is holding a 90-day public review period, ending on Feb. 17, 2025. In 2023, the Legislature directed DEQ to assess the air quality impacts from CAFOs within six months of the AP-42 factors being finalized. DEQ will continue to update the commission on this topic as we review the draft and final AP-42 and assess air quality impacts from CAFOs.

3.0 Water Quality

3.1 2024 Water Quality Standards Triennial Review

The Clean Water Act requires states to review their water quality standards at least once every three years to identify revisions that should be made to incorporate new scientific information, meet federal requirements, clarify standards, or improve the implementation of standards in our water quality programs, such as National Pollutant Discharge Elimination System permits, assessment and Total Maximum Daily Loads. This process is called a Triennial Review. The Water Quality Standards Program is conducting the Triennial Review process to identify and prioritize water quality standards work needs. The Triennial Review will result in a workplan of priority projects that the Water Quality Standards Program expects to start or complete between 2025 and 2027.

DEQ conducted public comment from October 2024 to December 2024 on the draft workplan. DEQ staff will consider public comments and present the final workplan to the commission in March 2025. Additional information is found on [DEQ's Water Quality Standards webpage](#).

3.2 Bio-Oregon Protein NPDES permit challenge

On Feb. 17, 2022, DEQ issued a renewal NPDES permit to Bio-Oregon Protein, Inc. nka Pacific Bio Products – Warrenton, LLC. Bio-Oregon requested a contested case hearing, challenging several of the permit's effluent limits and monitoring requirements. Following a hearing, an Administrative Law Judge issued a Proposed Order on Oct. 17, 2023, upholding the permit in its entirety. Bio-Oregon requested

commission review, and the commission heard arguments in the matter at its Sept. 26, 2024, regular meeting. During the meeting, the commission affirmed the Order with a couple exceptions related to the mercury limits included in the challenged permit. The commission issued a final order on Oct. 9, 2024. The permit went into effect that same day.

On Dec. 6, 2024, Bio-Oregon appealed the commission's final order to the Oregon Court of Appeals. On Dec. 9, 2024, Bio-Oregon filed a motion with DEQ requesting that the permit be stayed throughout the Court of Appeals process. Pursuant to OAR 137-003-0690, Bio-Oregon's request must demonstrate: 1) that they will suffer irreparable injury if the order is not stayed; 2) there is a colorable claim of error in the commission's order; and 3) that granting the stay will not result in substantial public harm. DEQ evaluated Bio-Oregon's motion based on these factors, and on Jan. 8, 2025, DEQ issued a denial of the stay request based on this legal standard. The stay request has been denied pending the next level of appeal to circuit court. Bio-Oregon can file a separate motion to stay with the Court of Appeals.

4.0 Eastern Region

4.1 Crook County domestic well concerns

Private well owners north of the city of Prineville, near the Knife River Woodward mine site, have shared concerns about the quality of their well water, including the potential impacts on human health. Following several site visits, an open house with the Oregon Health Authority and significant collaboration with other agencies and the residents, DEQ hired a consultant to conduct a single round of domestic well sampling in November 2024 and complete a comprehensive sampling and analysis plan by January 2025. The single round of domestic well sampling has been completed and we expect results in January 2025. We will share results with OHA to determine any next steps related to evaluating the impacts on drinking water.

The agency is also developing a comprehensive sampling and analysis plan, which is nearing completion with meaningful input from partner agencies, EPA, and other interested parties. The purpose of the comprehensive plan is to identify potential sources and underlying conditions that could impact possible well contamination, and to gather additional information to understand the health risks. The comprehensive plan will be finalized in January. DEQ and sister agencies continue work identifying a funding a source to implement the comprehensive plan. DEQ and DOGAMI are also working with Knife River to conduct their own groundwater investigation at the Woodward mine site. DEQ has received a draft plan from Knife River for that investigation and is reviewing it.

5.0 Northwest Region

5.1 Zenith Energy

Zenith Energy Terminal Holdings, LLC, is a fuel products transloading facility located in an industrial section of northwest Portland near the Linnton neighborhood. The company accepts crude oil, diesel, renewable fuels and other fuel products from one mode of transportation, like railcars, and passes them along to another, such as marine vessels. In the interim, fuel products are stored at the facility in above-ground tanks.

The air quality permitting process is currently on hold while Zenith responds to DEQ's request for a Land Use Compatibility Statement that covers operations on adjacent lots not included in its current LUCS the

City of Portland issued in 2022. Zenith may continue to operate under its current Title V air quality permit during this time since it submitted a timely and complete Title V renewal application. DEQ also issued a \$372,600 fine to Zenith for unauthorized use of the McCall dock between April 2021 and June 2024.

DEQ held a public information meeting on Dec. 16, 2024, to share information and answer questions about this latest development.

6.0 Western Region

6.1 Reservoir drawdowns in the Willamette Basin

The Army Corps of Engineers drew down several reservoirs to historically low levels in the Upper Willamette River system for the second time this fall. The deep drawdowns are required by an injunction issued by the U.S. District Court in September 2021 to support spring chinook and winter steelhead downstream passage. Spring chinook salmon and winter steelhead in the Upper Willamette River system are listed for protection under the U.S. Endangered Species Act.

Based on temperature impacts and turbidity experienced during the 2023 drawdowns, particularly below Green Peter Dam along the Santiam River, the Army Corps proposed alternative and additional implementation methods and communications prior to the 2024 drawdown. The court approved this amended implementation plan this fall. Since September 2024, the Army Corps has been meeting regularly with state agencies and local water providers to provide updates on the drawdowns at Lookout Point and Green Peter reservoirs. On Nov. 22, 2024, the Army Corps halted the drawdown of Green Peter Reservoir ahead of schedule after receiving requests from the cities of Albany, Sweet Home, and Lebanon to stop the drawdown due to high turbidity, which was impacting the cities' ability to treat drinking water. The Green Peter drawdown is not expected to resume this winter. The deep drawdown at Lookout Point concluded on Dec. 12, 2024, and the reservoir began refilling. Deep reservoir drawdowns are intended as a long-term operational measure to support downstream fish passage, so continued coordination between local, state, and federal entities will be necessary to balance the multiple beneficial uses of the reservoir and downstream waters.

6.2 Potential Three Basin Rule permit action

The Oregon Cascade RV Co-Op facility near the McKenzie River in McKenzie Bridge has an active application with DEQ for a new Water Pollution Control Facility Onsite permit that will trigger the Three Basin Rule process (because the design flow is 5,000 gallons per day or more), which includes going to the EQC for approval. This action item is tentatively scheduled for the March 2025 EQC meeting and is similar to the action item from the May 2024 EQC meeting related to the Lazy Days Mobile Home Park facility. This new WPCF-OS permit is required due to significant repairs and upgrades being made to the onsite septic system that includes decommissioning multiple older septic systems that are currently in existence and replacing them with a single new system that is expected to perform better and be more protective. This facility is existing and is not proposing to exceed the current 7,000 gallons per day design capacity under which they currently operate. The draft WPCF-OS permit is ready and DEQ started a 30-day public comment period on Dec. 16, 2024.

6.3 Reworld Marion

Reworld, a municipal waste incinerator just north of Salem that burns solid waste and generates power, formally notified DEQ of its plans to stop receiving waste by the end of the year. Reworld is the only

municipal solid waste incinerator in Oregon. Reworld is exploring options for the facility's future, including transferring ownership. DEQ met with Reworld representatives on Dec. 13, 2024, to discuss permit obligations for a few scenarios: maintaining permit status for an inactive facility, permit termination for facility closure, and permit transfer to new facility owner/operator. The DEQ permits include a solid waste permit, a Title V air quality permit, an NPDES individual wastewater permit, and a stormwater discharge permit. Reworld is primarily focused on obligations associated with Senate Bill 488 and Cleaner Air Oregon.

DEQ is currently reviewing the Cleaner Air Oregon draft risk assessment work plan to determine what level of risk assessment DEQ would require for Reworld. We are also working through the process to respond to Reworld's objection to our order requiring the facility to do monitoring and sampling required by SB 488. Both of those activities are complicated by the facility status as it winds down incineration activities and ceases emissions associated with incineration.

6.4 Coffin Butte Landfill

Coffin Butte is a large municipal solid waste landfill located north of Corvallis and south of Monmouth just off Highway 99 in Benton County. The facility has been the subject of concern from residents in the area and from advocacy groups concerned about air quality impacts, odors and traffic. The facility is owned by Republic Waste and has a Title V air quality permit that is in renewal right now, a solid waste permit and a stormwater permit.

The facility recently applied for land use approval to expand the landfill footprint beyond its current boundaries. This has generated additional scrutiny from project opponents. Currently, a conditional use permit application is with Benton County for the potential expansion outside the current permitted landfill footprint. No solid waste application will be submitted until and the county approves.

The Coffin Butte Title V permit renewal is in public comment right now, scheduled to run through Jan. 29, 2025. A public hearing is scheduled for Jan. 14, 2025.

6.5 J.H. Baxter

The 31-acre site in Eugene was an active wood treatment facility since the early 1940s until J.H. Baxter & Co. ceased operations on Jan. 31, 2022. Spills and operational practices resulted in soil and groundwater contamination and air emissions concerns. Over the years, DEQ, EPA, and the Lane Regional Air Protection Agency have investigated the facility, which produced treated wood products such as utility poles and railroad ties and issued numerous enforcement actions and required cleanup measures. In October 2019, DEQ issued the formal cleanup plan, called a Record of Decision, which required offsite sampling and other remedial actions on the property.

Between 2020 and 2023, DEQ and EPA sampled 62 residential yards for dioxins, a group of toxic chemicals that can be associated with wood-treating chemicals. Soil sampling identified 11 yards above both DEQ's residential cleanup levels and an OHA priority cleanup level to protect children under six years old.

In 2024, significant progress was made on cleanup at residential properties and the facility. DEQ completed soil cleanup at seven residential properties which included excavation and disposal of contaminated soil and import of clean soil. The residential cleanup work at these seven properties was funded through DEQ's Industrial Orphan Site Account. Due to the high threat of release and risk to public health and the environment, on Aug. 5, 2024, EPA began a CERCLA Time Critical Removal Action, or

TCRA, at the J.H Baxter facility to remove large quantities of hazardous substances that were left on site when the facility closed in 2022. The EPA TCRA at the J.H. Baxter site is a massive undertaking and is anticipated to cost more than \$10 million. In addition to the TCRA, EPA finalized an Integrated Assessment and Hazard Ranking System scoring, which resulted in EPA proposing the J.H. Baxter site for inclusion on the National Priorities, or Superfund, List on Sept. 4, 2024. At present, final listing to the National Priorities List is tentatively expected for the Spring of 2025.

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