

State of Oregon
Department of Environmental Quality

Memorandum

Date: July 13, 2021
To: Environmental Quality Commission
From: Richard Whitman, Director
Subject: Item F: Budget and Legislative Session updates (Informational)
July 22-23, 2021, EQC meeting

Purpose of item DEQ will present updates about the outcomes of the 2021 Oregon legislative session, including legislation that will result in agency administrative changes or commission rulemaking. Staff will also present updates on the agency's budget and other relevant legislative information.

EQC involvement There is no commission action associated with this item. DEQ will request that Chair George certify the agency's final Legislatively Adopted Budget for 2021-23 once budget materials pass the required audit by the Department of Administrative Services this summer.

Attachment A. End-of-Session summary report

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July 13, 2021

DEQ Legislative Summary

2021 Regular Session



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DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.

Executive Summary

The Oregon Legislature adjourned the 2021 Regular Session on June 28th. There were 2,519 bills, memorials, and resolutions introduced during this session, 719 of which ultimately passed. Due to the COVID-19 pandemic, session business was conducted remotely, with the exception of floor votes.

DEQ staff participated extensively throughout the session, providing expert testimony at hearings, work sessions and informational sessions on key environmental topics. Staff also met with legislators and staff and provided detailed policy information on everything from recycling to harmful algal blooms and environmental justice, among other topics.

DEQ tracked hundreds of bills this session and those included in this report are measures that made it to final passage and either directly impact the agency's work or will likely impact future agency activities.



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Legislation Passed

Agency-Originated Bills

SB 57—Hazardous Waste Fee Structure Update

DEQ's Hazardous Waste and Environmental Cleanup programs are partially funded through "tipping" fees, which are assessed when waste is disposed of at a hazardous waste landfill. Senate Bill 57A modifies fees for the disposal of hazardous wastes by removing obsolete fees and increasing the one fee from \$2/ton to \$5/ton.

Programs Impacted: Hazardous Waste and Environmental Cleanup

SB 58—Environmental Data Management System Maintenance Surcharge and Credit Card Service Fee Pass-On Authority

SB 58 created a mechanism for DEQ to recoup ongoing maintenance costs associated with its Environmental Data Management System (EDMS) IT system upgrade and for DEQ to pass the credit card fee charged per transaction on to the consumer. The bill allows DEQ to impose an annual surcharge of no more than 4 percent on each fee or invoice generated using the EDMS system. The agency has the ability to reduce the surcharge each biennium to ensure DEQ is only raising the revenue needed to defray this cost.

Agency-wide Impact

SB 582—Plastic Pollution and Recycling Modernization Act¹

SB 582 requires producers of printed paper, packaging and food service ware to share responsibility for recycling the products they sell in Oregon. The bill establishes producer responsibility programs for packaging; printing and writing paper; food service ware; and requires producers of covered products to join a producer responsibility organization that implements a plan approved by Department of Environmental Quality. The bill requires the creation of a uniform statewide collection list for recyclable materials, establishes the Oregon

¹ HB 2065 was introduced by DEQ as a major update of Oregon's recycling system, but the language was subsequently put into SB 582, which eventually passed.

Recycling System Advisory Council and establishes a Truth in Labeling Task Force. Requires recycling processing facilities to obtain a disposal site permit.

Programs Impacted: Materials Management

Air Quality Division

The Air Quality Division is responsible for developing, implementing and evaluating program and policies designed to reduce air pollution, improve air quality and reduce greenhouse gas emissions. Related to air quality and climate, The 2021 session focused on new and emerging sources of pollution and sector-specific approaches to reducing greenhouse gas emission. This included:

- Numerous hearings on smoke events from catastrophic wildfire
- Pollution from land uses and activities that draw in or concentrate emissions from car, trucks and construction equipment known as “indirect sources”
- A number of bills and hearings focused on transportation electrification and reducing transportation-related greenhouse gas emissions
- Approaches to reducing – and eliminating – greenhouse gas emissions from the energy sector

SB 762—Wildfire Response and Prevention

SB 762 was an omnibus bill designed to strengthen state agencies’ and local communities’ ability to prevent and respond to wildfire in the state. The bill requires a comprehensive statewide response to plan for and mitigate wildfires with a focus on community preparedness and public health. As part of the public health effort, the bill requires DEQ and the EQC to monitor smoke, issue grants for community response plans, enhance level of service for community technical assistance and communication.

Programs Impacted: AQ Monitoring, Laboratory, AQ Planning, and Smoke Management

HB 2021—Clean Energy

HB 2021 requires certain retail electricity providers to reduce greenhouse gas emissions associated with electricity sold to Oregon consumers to 80 percent below baseline emissions levels by 2030, 90 percent below baseline emissions levels by 2035 and 100 percent below baseline emissions levels by 2040. This measure complements DEQ’ proposed Climate Protection Program by addressing emissions from the second largest sector – electricity. The bill

applies to emissions that otherwise would be left unregulated due to limitations in EQC authority. To the extent that Oregon's economy shifts towards electrification, this measure assures that shift will result in reduced greenhouse gas emissions.

Programs Impacted: Office of Greenhouse Gas Programs

HB 2165—Clean Vehicle Rebate Program Extension

HB 2165 was an omnibus bill related to transportation electrification in the state. As part of this bill, the original sunsets on the Clean Vehicle Rebate Program and the Charge Ahead Rebate Program were repealed and rebate eligibility and values were adjusted. The maximum rebate from the Charge Ahead Oregon program will rise from \$2,500 to \$5,000. Hydrogen fuel cell vehicles that cost up to \$60,000 are also eligible for rebates.

Programs Impacted: Clean Vehicle Rebate Program

HB 2475—Energy Rates for Low-Income Communities

HB 2475 authorizes the Public Utility Commission to set rates that protect low-income customers. The bill also provides resources to support engagement with environmental justice and low-income communities to participate meaningfully in PUC proceedings.

Programs Impacted: Office of Greenhouse Gas Programs

Notable Bills That Failed to Pass:

- HB 2479—requires creation of an inventory of black carbon sources and a report to the legislature on black carbon reduction strategies.
- HB 2814—directs the EQC and DEQ to develop an indirect source review program.

Land Quality Division

DEQ's Land Quality program improves and protects Oregon's land, air and water by working with stakeholders on responsible management of materials, reduction of waste and toxics, cleaning up contaminated sites, and responding to emergency spills.

HCR 24—50th Anniversary of the Bottle Bill

House Concurrent Resolution 24 commemorated the 50th anniversary of the Oregon Bottle Bill, which was enacted in 1971 and is the nation's longest-standing beverage container deposit law.

Program Impacted: Materials Management

SB 246—Radioactive Waste Regulation

Senate Bill 246 modifies the definition of radioactive waste and requires the Energy Facility Siting Council (EFSC) to adopt standards and rules necessary to prevent the disposal of radioactive waste in Oregon. The bill also provides the ODOE Director and EFSC additional authority for the administration and enforcement of laws related to the disposal of radioactive waste. The ODOE Director or EFSC, in coordination with DEQ, may now require a person to take necessary action to correct a violation of these requirements.

Program Impacted: Hazardous Waste

HB 2077—Lead Paint Cleanup

HB 2077 was introduced at the request of the Oregon Health Authority to allow the agency to require a risk assessment and abatement or control of lead-based paint hazards generated during work by landlords, property managers, school district staff, childcare operators, and other regulated professionals that are not required to hold a state contractor's license. This bill allows OHA to issue a stop-work order for renovation or abatement work the agency identifies as unsafe and in violation of rules, and to require a property owner to identify a third party who performed a renovation or lead abatement on their behalf and did not use lead-safe work practices, among other changed to its authority under ORS 431A.

Program Impacted: Clean Up

HB 2377—Brownfields Insurance

HB 2377 was introduced at the request of the Oregon Department of Justice and amends requirements relating to corporate dissolutions. The bill allows claims to be made against insurance assets of a dissolved corporation, subject to otherwise applicable statutes of limitation.

Program Impacted: Clean Up

HB 2518—Forgivable Loans for Clean Up

HB 2518 creates the Oregon Brownfield Properties Revitalization Fund to support the cleanup of brownfields.

Program Impacted: Clean Up

HB 2927—Statewide Emergency Response Reorganization

HB 2927 reframes Oregon’s Emergency Management structure by making the Office of Emergency Management a separate department. The bill also creates a task force on whether the Office of State Fire Marshal should be a separate department, and makes other changes to advisory bodies on emergency preparedness and response.

Program Impacted: Emergency Response

Notable Bills That Failed to Pass:

- SB 570—EPR Program for Mattresses
- SB 847—Bottle Bill Taskforce
- HB 2688—Buy Clean
- HB 2698—Right to Repair
- HB 2955—EPR Program for Household Hazardous Waste
- HB 3269—Study for Permanent Emergency Response Program funding

Water Quality Division

DEQ’s Water Quality Program protects Oregonians’ health and the environment by assessing environmental conditions through monitoring and scientific analysis; setting quality standards to ensure that water is clean; determining pollution control strategies and creating clean water plans with local communities; regulating industrial and municipal sources of water pollution through permits, inspections and enforcement. The Water Quality Program works closely with communities, tribal governments, farmers and industry to develop clean water plans to meet federal requirements. While many of the program’s strategies are carried out locally, such as the clean water plans, other strategies are implemented throughout the state, such as the regulation of wastewater treatment plants, septic system permitting to protect groundwater and the regulation of industrial discharges to the state’s waters.

SB 391—Accessory Dwelling Units

SB 391 allows counties to authorize owners of a lot or parcel in a rural residential zone to construct an accessory dwelling unity, subject to certain conditions, including sanitation and waste water disposal, and locally-adopted land use regulations.

Program Impacted: Onsite Wastewater Management Program

HB 2018—Groundwater Budgets for Major Hydrologic Basins

HB 2018 instructs Water Resources Department to enter into an agreement with United States Geological Survey to produce and publish ground water budgets for all major hydrologic basins in this state.

Program Impacted: Groundwater Protection

HB 2031—Pesticides Control Act

HB 2031 makes definitional and exemption changes to the State Pesticide Control Act.

Program Impacted: Nonpoint Source Pollution, Pesticide Stewardship Partnerships

HB 2032—Regionally Specific Rules for Traditionally Maintained Channels Programs

HB 2032 authorizes the Department of State Lands or Department of Agriculture to adopt rules for implementation of traditionally maintained channels programs on a region-by-region basis.

Program Impacted: Section 401 Removal and Fill Certification

HB 2143—Hydroelectric Program Fees

HB 2143 simplifies and increases the base annual fees paid by hydroelectric projects to maintain current services at the Water Resources Department, Department of Fish and Wildlife, and DEQ. The bill equalizes the annual fee rates for large projects (greater than 123.5 theoretical horse power (THP) with all projects paying the same fee, beginning January 2024. The bill also standardizes fees for small projects less than 15 THP at \$15/year and for projects between 15 THP and 123.5 THP at \$50/year and requires the Water Resources Commission to annually adjust the fee based on the specified Consumer Price Index.

Program Impacted: Section 401 Hydropower Certification

HB 2145—Water Well Abandonment, Repair and Replacement Fund

HB 2145 establishes the Water Well Abandonment, Repair and Replacement Fund to provide financial assistance to permanently abandoned water wells or to repair and replace water wells used for household purposes.

Program Impacted: Groundwater Protection

HB 2289—Wildfire Response Regulatory Relief Measures

HB 2289 updates regulatory requirements for building or land use related to areas that were destroyed or interrupted by the 2020 Labor Day wildfires. Among other changes, the bill requires DEQ to approve a permit to repair or replace a subsurface sewage disposal system that serves an approved dwelling, provided that a system served the dwelling on July 30, 2020 and system operation would not result in pollution of surface waters or ground water.

Program Impacted: Onsite Wastewater Management Program

HB 2298—Dredge and Fill Restoration

HB 2298 requires the Oregon Department of Fish and Wildlife to adopt rules allowing in-water structures/weirs intended to mimic beaver dams on small streams.

Program Impacted: Section 401 Removal and Fill Certification, Total Maximum Daily Loads

HB 2344—Flushable Wipes

HB 2344 requires persons with responsibility for or control over packaging and labeling disposable cleaning cloths or similar products to comply with certain labeling requirements for product packaging to help prevent their disposal in wastewater systems.

Program Impacted: Wastewater Operator Certification

HB 2603—Cable Drilling

HB 2603 requires owners or operators of undersea fiber optic telecommunication cables to obtain financial assurances and create a plan for cable removal. As part of this work, DEQ may be asked to consult with the Department of Land and Conservation Development and Ocean Policy Advisory Council as it completes a study and makes recommendations for updates to the Territorial Sea Plan regarding the placement of cables, pipelines and other utilities in the territorial sea.

Program Impacted: Section 401 Removal and Fill Certification

HB 3092—Well Restoration

HB 3092 creates the Domestic Well Remediation Fund, a grant program for the purpose of sharing the cost of remediating reductions in amount of ground water available for domestic personal use in Greater Harney Valley Groundwater Area of Concern due to over allocation of ground water for agricultural use.

Program Impacted: Groundwater Protection

HB 3114—Ocean and Estuarine Monitoring

HB 3114 appropriates moneys from the General Fund to Oregon Ocean Science Trust, State Department of Fish and Wildlife and Higher Education Coordinating Commission in certain amounts for certain purposes related to ocean chemistry.

Program Impacted: Water Quality Monitoring; Water Quality Assessment

HB 3185—Agricultural Channel Maintenance

HB 3185 prohibits spreading of material in undisturbed wetlands during maintenance of agricultural channels.

Program Impacted: Section 401 Removal and Fill Certification

HB 3191—Utilization of Salmon Carcasses for Stream Enhancement

HB 3191 directs the State Fish and Wildlife Commission to adopt certain requirements related to carcasses of returning hatchery fish and requires the Oregon Department of Fish and Wildlife to distribute a minimum amount of hatchery return salmon carcasses for nutrient enrichment according to those requirements.

Program Impacted: Water Quality Permitting, Water Quality Monitoring, Total Maximum Daily Loads (TMDLs)

HB 3293—Support for Community Engagement Plans for Water Projects

HB 3293 authorizes providers of water project supports to make support available to local organizations and local governments for the purpose of developing local community engagement plans for water projects. Providers of water quality project support include DEQ, among other state agencies.

Program Impacted: Clean Water State Revolving Fund

Notable Bills That Failed to Pass:

- HB 2241—Requiring DEQ to approve three businesses to review water quality permit applications
- HB 2657—Setting timelines for response for DEQ permit applications

- HB 2660—Related to fees charged for DEQ permits, licenses, and services provided by the department.
- HB 3093—Related to Harmful Algal Bloom Response
- SB 857/HB 2555—Related to management of wakesurfing boat activities and the study of streambank erosion impacts.

Agency Management and DEQ General Authority

SCR 17—Environmental Justice Framework

SCR 17 provides the legislative intent to broaden the environmental justice duties contained in ORS 182.545 to all state agencies. The resolution also requires all state agencies to develop guidance for the consideration of environmental justice in implementing their statutory and regulatory responsibilities to ensure that all actions are taken to correct environmental injustices and improve public health and overall well-being of all communities

SB 184—Veterans Preference in Public Employment

SB 184 modifies the statute relating to preference given to veterans for public employment.

HB 2992—Make-up of Agency Advisory Committees

HB 2992 requires state boards or commissions, including EQC, to pay compensation and expenses, including travel or other expenses, to certain members with adjusted gross income below certain thresholds.

HB 3372—General Agency Authority when Issuing, Modifying, Revoking Permits

HB 3372 clarifies and expands DEQ's general authority by including all DEQ programs and statute authorities, which DEQ may consider when issuing, modifying, suspending or revoking a permit. The bill also allows the agency to ask for information relating to any of the applicant's past environmental violations, including past violations of corporate officers or other controlling parties.

Notable Bills That Failed to Pass:

- SB 286—creates an Environmental Justice Council (replacing the current Environmental Justice Task Force) and provides a framework for creating an environmental vulnerability assessment.

21-23 Legislatively Adopted Budget

SB 5516—Department Budget

HB 5516 is the 2021-23 Legislatively Adopted Budget for DEQ, which includes \$595 million in total funds and 801 positions (794.68 FTE). The 2021-23 budget increased 26.2% from the 2019-21 Legislatively Approved Budget. Key budget highlights include:

- POP 110 – VIP Fee Bill (SB 5517) – Restores 8 positions
- POP 111 – GHG Funding \$1.379 Million General Fund/no positions
- POP 112 – LRAPA - \$250,000 General Fund
- POP 113 – Clean Diesel - \$365,236 General Fund, 1 position
- POP 114 – Asbestos Fee - \$600,000 Other Fund
- POP 133 – Hazardous Waste Fee \$225,000 Other Fund
- POP 134- Solid Waste Orphan Fund - \$531,765, Other Fund, 2 positions
- POP 121 – Clean Watershed Plans – \$1,062,146 General Fund, 4 positions
- POP 124 – CWSRF Loan Software - \$1,599,000 Other Fund
- POP 125 – Lottery Fund Restoration -\$1,543,776, Restore 5 positions
- POP 141 – EDMS Surcharge - \$1.6 Million Other Fund
- POP 143 – Agency Staffing -\$2,959,689 Other Fund, 11 Positions

SB 5517—Fee Ratification

SB 5517 ratified a fee increase for the Vehicle Inspection Program, adopted by the Environmental Quality Commission in May 2020.

HB 5006—Budget Reconciliation

House Bill 5006 is the budget reconciliation bill (also known as the End of Session Bill or Christmas Tree Bill), which provides various budget adjustments for state agencies.

- \$350,000 -- Initial scoping and design of a database framework of water and infrastructure data
- \$420,099 -- Backfill of a revenue shortfall (from HB 2143/Hydro Fee)
- \$15,000,000 -- Repair, replacement, upgrade or evaluation of residential or other on-site septic systems
- \$569,382 -- Administration of financial assistance for on-site septic systems (2 positions)
- \$3 million -- Hazardous waste and structural debris cleanup cost sharing related to the 2020 wildfires
- \$395,000 -- Debt service
- \$4,300,000 -- Industrial Orphan Site Cleanup and cost of bond issuance

HB 5042—19-21 Final Budget Reconciliation

HB 5042 includes two permanent positions to expand capacity for the collection and testing of water samples for cyanotoxins. The data resulting from this testing will be processed, reported to OHA and entered into the publicly accessible AWQMS database.

Budget Notes

Environmental Data Management System Project

DEQ is implementing an Environmental Data Management System (EDMS) project. The project involves the consolidation or replacement of aging, disparate agency systems within one off-the-shelf solution designed to standardize and automate key business processes across DEQ's Air, Water and Land programs. DEQ is directed to provide a comprehensive report on the status of the EDMS project to the Joint Legislative Committee on Information Management and Technology (JLCIMT) during the 2022 legislative session. The report shall at minimum include updated status information on: 1) Project governance, management and staffing; 2) Project scope, schedule and budget; 3) Current or planned procurements/contracts (at the time of the report); 4) Legacy system and data conversion planning/activities; 5) Risks and challenges; 6) Independent quality assurance findings; and 7) Any other information that would inform the JLCIMT or other legislative committees about the status of this project.

Department Information Sessions

In addition to giving testimony related to various bills and their impact to DEQ's programs, DEQ's director, administrators, and staff gave presentations to legislative committees related to the agency's past or ongoing work.

Agency, Generally

- Environmental justice efforts at DEQ

Air Quality

- Clean Vehicle Rebate Program
- 2020 Petition to the EQC Regarding Indirect Source Proposed Rulemaking

Land Quality Division

- Materials Management and the 2050 Vision
- Producer responsibility programs in Oregon

Water Quality Division

- Harmful Algal Blooms and DEQ participation in the HAB Legislative Workgroup
- Water quality permitting program improvements
- Water quality assessment and integrated report development