

Annual Report to the Environmental Justice Task Force and Governor

Oregon Department of Environmental Quality

January 2012

The Oregon Department of Environmental Quality (DEQ) is committed to the principles of environmental justice and ensuring that the agency's actions address the interests of Oregon communities, including minority, low-income and other traditionally underrepresented communities, as much as state and federal laws allow. DEQ greatly appreciates the leadership and partnership of the Environmental Justice Task Force on these important issues, and we look forward to continuing to work with the Task Force in 2011 to improve the state's ability to ensure environmental justice.

Senate Bill 420 (Oregon Revised Statutes 182.535-182.550), which took effect in January 2008, created new requirements for DEQ and other state agencies as noted below.

182.545 Duties of natural resource agencies. In order to provide greater public participation and to ensure that all persons affected by decisions of the natural resource agencies have a voice in those decisions, each natural resource agency shall:

- (1) In making a determination whether and how to act, consider the effects of the action on environmental justice issues.
- (2) Hold hearings at times and in locations that are convenient for people in the communities that will be affected by the decisions stemming from the hearings.
- (3) Engage in public outreach activities in the communities that will be affected by decisions of the agency.
- (4) Create a citizen advocate position that is responsible for:
 - (a) Encouraging public participation;
 - (b) Ensuring that the agency considers environmental justice issues; and
 - (c) Informing the agency of the effect of its decisions on communities traditionally underrepresented in public processes.

182.550 Reports by natural resource agencies. All directors of natural resource agencies, and other agency directors as the Governor may designate, shall report annually to the Environmental Justice Task Force and to the Governor on the results of the agencies' efforts to:

- (1) Address environmental justice issues;
- (2) Increase public participation of individuals and communities affected by agencies' decisions;
- (3) Determine the effect of the agencies' decisions on traditionally underrepresented communities; and
- (4) Improve plans to further the progress of environmental justice in Oregon.

This report provides information on DEQ's actions in 2011 in support of these requirements. For more information, please contact Christine Svetkovich, who serves as DEQ's Citizen Advocate

and is coordinating DEQ's environmental justice activities. Christine can be reached at 503.725.2180 or svetkovich.christine@deq.state.or.us.

While important initial steps have been taken, DEQ is committed to strengthen the agency's ability to identify and address environmental justice issues in Oregon, working in partnership with communities, other government entities, the Environmental Justice Task Force and various stakeholders in the coming years.

As required by ORS 182.550, below is a summary of DEQ efforts to

- (1) Address environmental justice issues;
- (2) Increase public participation of individuals and communities affected by the agency's decisions;
- (3) Determine the effect of the agency's decisions on traditionally underrepresented communities; and
- (4) Improve plans to further the progress of environmental justice in Oregon.

Note: due to the related nature of these points, there is some repetition in the responses below.

Addressing environmental justice issues

Over the past year, DEQ has taken important initial steps to establish a framework for identifying and addressing environmental justice (EJ) issues in Oregon. A brief summary follows.

- DEQ began incorporating new language on EJ and cultural competency into performance management materials for DEQ managers. The final language was developed in coordination with the EJ Task Force Interagency Work Group, the Oregon Department of Administrative Services and other Task Force members and DEQ. DEQ anticipates adding the new language to many manager performance management materials where appropriate, throughout 2012.
- A lawsuit was filed in Multnomah County Court in November 2010 against DEQ regarding the placement of dredge materials on West Hayden Island in Portland. The plaintiffs raised EJ concerns based on SB 420. DEQ, in consultation with the Department of Justice, is still working on the issue.
- DEQ's Citizen Advocate advised and assisted DEQ staff and managers on environmental justice issues or potential issues in various DEQ programs around the state throughout the year.

In addition, DEQ employees are working statewide on a wide range of issues to protect and improve Oregon's environment and the health of Oregon communities, including minority, low-income and other traditionally underrepresented communities. A few examples follow.

- In 2011, DEQ continued working with the Confederated Tribes of the Umatilla Indian Reservation, other tribal nations, the Environmental Protection Agency (EPA) and stakeholders to revise Oregon's water quality standards for toxic pollutants and to incorporate a fish consumption rate that provides improved protections for people who rely on fish for cultural and subsistence purposes. DEQ's Environmental Quality

Commission adopted these rules in June 2011 and the U.S. Environmental Protection Agency approved them on Oct. 17, 2011.

- DEQ is working with local communities to improve air quality by reducing diesel emissions, providing protection to those most at risk from air pollution. Reducing particulates from diesel decreases asthma incidence and lowers risk for lung cancer and cardiovascular disease. In 2011, DEQ completed projects on upgrading exhaust controls on municipal fleets in the cities of Portland, Lake Oswego and Milwaukie, in Lane, Multnomah and Washington counties, Tri-Met transit buses and school buses in the Beaverton, Bend-LaPine and Klamath County school districts. DEQ also completed work on a federal grant funded project to repower engines on pilot launch boats and a towboat that operate in the Columbia and Willamette rivers. A significant project partnership has been finalized between DEQ and Metro to upgrade exhaust controls on several hundred residential refuse hauler trucks in the Portland metropolitan area. In addition, recently awarded grants will go to repowering engines on another Columbia River towboat and the dredge *Oregon*. The marine repower work, with a project life of at least 25 years, has resulted in significant environmental and public health benefits. The repowered Columbia River towboats are emitting up to 90 percent less per ton mile of freight moved as compared to values reported in a national study.
- DEQ developed a draft statewide Toxics Reduction Strategy to reduce toxic pollution to Oregon's air, water and land, which may have a disproportionate effect on the most vulnerable communities. In the draft strategy, DEQ identified 25 toxics reduction and assessment actions to address high priority toxic chemicals and pollutants. Tribal nations, as well as public health and environmental advocacy groups, participated in the stakeholder group that helped DEQ establish the framework for the strategy. DEQ is now seeking input from a wide range of interests, including community EJ groups and the EJ Task Force, on the draft strategy through the winter of 2012. DEQ plans to finalize the Toxics Reduction Strategy in mid-2012.
- DEQ, with input from the Portland Air Toxics Solutions Advisory Committee, used 2017 modeling and demographic data to determine where there are disproportionate impacts from air toxics on low-income and minority populations in the Portland Air Toxics Solutions study area. The study area includes portions of Multnomah, Washington and Clackamas counties. Using four different methods of examining the data, DEQ concluded that low-income and minority communities are disproportionately impacted by higher concentrations of air toxics compared to mid to high income primarily white communities in the Portland Air Toxics study area. DEQ is currently working on communication materials for the report. The report will go out for a public comment period during March 2012. The final report recommendations are expected to be completed by mid-2012.

In general, DEQ found that the Hispanic/Latino population experienced the highest impacts from residential wood combustion emissions, the Asian population from on-road mobile emissions, the African American/Black population from area source emissions, and the population living below the poverty level from on-road mobile emissions. Non-road mobile emissions also significantly impact minority populations, while point sources

disproportionately impact populations living below the poverty level. DEQ plans to factor environmental justice considerations into future strategies to reduce emissions from the priority categories. DEQ has also shared this information to be used by communities, local governments and other entities to prioritize efforts to improve public health.

- DEQ's Office of Compliance and Enforcement assesses civil penalties for environmental law violations. Violators are sometimes given the opportunity to offset their monetary penalty by agreeing to pay for a supplemental environmental project. During 2011, the following supplemental environmental projects benefited environmental justice communities:
 - Washington Demilitarization Company contributed \$27,520 to the Harney County Senior and Community Services Center for their woodstove change-out program which covers costs for low income homeowners for the reasonable cost of removing an old woodstove and replacing it with a new EPA-certified woodstove, fireplace insert, pellet stove or a high efficiency gas/electric heat system. Replacing old woodstoves greatly reduces fine particulate matter emissions to the local airshed. With this funding, the project will be able to expand into the Burns/Hines area. The project was completed in September 2011.
 - Civil penalties from JELD-WEN (\$8,320) went to the South Central Economic Development District for woodstove replacement costs for low-income individuals in the Klamath Falls and Lakeview areas.
 - Collins Products LLC contributed \$3,800 to the South Central Economic Development District for low-income individuals to install EPA-certified fireplace inserts in lieu of burning wood in a traditional fireplace in the Klamath Falls and Lakeview areas.
- Brownfields are vacant or underused properties where actual or perceived environmental contamination complicates its expansion or redevelopment. DEQ works with communities, local governments and others on brownfields all around Oregon. During 2011, DEQ, in coordination with the Cully neighborhood community, the City of Portland, and the Oregon Health Authority worked on the Killingsworth Fast Disposal landfill site in the Cully Neighborhood in North Portland. A master plan to redevelop the landfill into Thomas Cully Park has been developed in coordination with the community. Due to previous site use, there are questions regarding the potential presence of contaminants in the landfill cap (surface soils) and outdoor air. Therefore, DEQ and the Oregon Health Authority are working collaboratively to develop a sampling plan with the objective of completing a health consultation to determine human health risk exposure to future park users and workers. The site sampling activity will include the collection of outdoor air and soil samples. The sampling, in coordination with the Cully neighborhood community, will be conducted in 2012 and the results will help the community and partners determine next steps for the development of the new park.

- DEQ is working to clean up contaminated lands around the state that pose risks to people's health, many of which exist in low-income and minority communities.
- DEQ continued collaborating with organizations and other agencies to improve the environmental health of nail salon workers and customers, many of whom are Vietnamese and African American, through education and outreach. DEQ supported the Center for Research on Occupational and Environmental Toxicology's successful grant application to provide information needed to develop effective informational materials and training for workers in nail salons to minimize workplace exposures and implement prevention steps. DEQ also supported another successful grant application that Zero Waste Alliance received. Both organizations are members of the Oregon Collaborative for Healthy Nail Salons.

Increasing participation of individuals and communities affected by the agency's decisions

DEQ has taken a number of steps in the past year to increase participation of individuals and communities affected by the agency decisions.

- DEQ's external EJ web page (<http://www.deq.state.or.us/about/envjustice.htm>) invites community members to contact DEQ's Citizen Advocate to share information about how DEQ's actions and decisions affect Oregon communities and to raise questions or concerns related to EJ issues. DEQ's Citizen Advocate receives and responds to questions, concerns and information from community members on an ongoing basis and assists the agency in exploring options to address EJ issues.
- DEQ's internal EJ web page provides guidance to agency employees on how to identify and reach communities that maybe affected by the agency's decisions, with a focus on at-risk and low-income, minority communities.
- DEQ met with the interested community on West Hayden Island in Portland multiple times during 2011 regarding applications DEQ received to place dredge material at a site owned by the Port of Portland.
- DEQ's Citizen Advocate advised and assisted DEQ staff and managers on environmental justice issues or potential issues in various DEQ programs.
- DEQ's Citizen Advocate hosted discussions with many DEQ staff and managers regarding DEQ's on-line EJ training, with a focus on community involvement, and the EJ issues and needs for each group.
- DEQ continues to build stronger relationships with tribal nations on a government-to-government basis to consult on how potential agency actions may affect tribal interests and to explore opportunities for greater state-tribal partnership. More information about DEQ's work with tribal nations is available in DEQ's 2011 Annual Government-to-Government Report on Tribal Relations (<http://www.deq.state.or.us/programs/tribal/>).
- DEQ is committed to including Oregonians in all aspects of the agency's decision making, including advisory committees and workgroups that frequently assist in developing state environmental rules. These groups provide vital information and

expertise to help DEQ make good decisions and are important links to communities and individuals that may be affected by the agency's actions. DEQ's web page, <http://www.deq.state.or.us/committees/advisorycommittees.htm>, provides a list of current advisory committees and workgroups and includes opportunities for citizens to apply to volunteer as a committee member.

- Current DEQ policies require holding public meetings at times and in locations that are convenient for potentially affected community members to attend and this is DEQ's practice for all public information meetings and hearings statewide. For decisions related to environmental permitting, DEQ policies require greater levels of public involvement for more significant permits and DEQ often consults with local leaders in selecting meeting locations familiar to local residents, such as schools and community centers.

Determining the effect of the agency's decisions on traditionally underrepresented communities

DEQ managers and staff work on a case-by-case basis and with the assistance of DEQ's Citizen Advocate when needed to determine the effect of the agency's decisions on traditionally underrepresented communities. Actions taken in the past year have provided additional tools and guidance for doing this.

- DEQ's internal EJ web page provides guidance to agency employees on how to identify and reach communities that may be affected by the agency's decisions, understand community interests, and facilitate greater involvement in DEQ decision-making.
- DEQ is developing a statewide Toxics Reduction Strategy to reduce toxic pollution to Oregon's air, water and land, which may have a disproportionate effect on the most vulnerable communities. One of the criteria being used to evaluate possible toxics reduction actions is impacts on vulnerable communities.
- DEQ's on-line EJ training for DEQ staff statewide includes a discussion on this topic.
- DEQ continues to build stronger relationships with tribal nations on a government-to-government basis to consult on environmental issues and determine the potential effect of agency decisions on tribal communities. More information about DEQ's work with tribal nations is available in DEQ's 2011 Annual Government-to-Government Report on Tribal Relations (<http://www.deq.state.or.us/programs/tribal/>).

Improving plans to further the progress of environmental justice in Oregon

In 2012, DEQ will continue efforts to further the progress of EJ in Oregon. This will include:

- ensuring that all DEQ employees, where appropriate, take the on-line EJ training,
- working with EPA on any national or regional EJ efforts or initiatives,
- working with EPA to develop EJ training for specific DEQ programs as needed,
- incorporating EJ and cultural competency expectations in DEQ manager position descriptions and performance management materials where appropriate,
- reaching out to communities that may be affected by agency decisions,

- diversifying DEQ’s advisory committees and workgroups, and
- evaluating the effect of agency decisions on traditionally underrepresented communities.

Again, while important initial steps have been taken, DEQ is committed to strengthen the agency’s ability to identify and address environmental justice issues in Oregon. DEQ looks forward to continuing to work with the EJ Task Force, community members, other government agencies and stakeholders in this effort over the coming years.