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Background Brief on ...

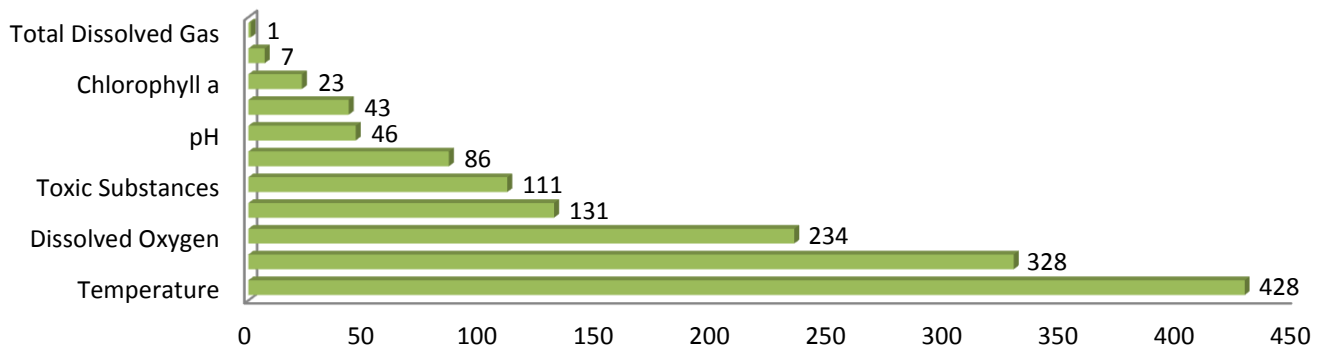
Water Quality

The federal Environmental Protection Agency (**EPA**) has delegated authority to the Oregon Department of Environmental Quality (**DEQ**) to operate the federal Clean Water Act (**CWA**) in Oregon. The EPA has oversight authority over how DEQ carries out the Act. The EPA also has separate enforcement authority under the CWA. DEQ is responsible for protecting Oregon's rivers, lakes, streams, and ground water to keep these waters safe for a wide range of uses, such as drinking water, recreation, fish habitat, aquatic life, and irrigation. DEQ's Water Quality Program accomplishes this by:

- Developing clean water standards for Oregon's waters;
- Monitoring water quality with regular sampling of more than 50 rivers and streams in 18 designated river basins in Oregon;
- Regulating sewage treatment systems and industrial dischargers through permits that set limits on pollutants discharged;
- Assessing the water quality conditions in all Oregon waters;
- Developing and implementing clean water plans ("Total Maximum Daily Loads" or **TMDLs**) for rivers and streams that do not meet clean water standards;
- Inspecting septic system installations and working with local agencies to ensure consistency around the state;
- Helping public drinking water systems implement plans to protect drinking water;
- Offering low cost loans to public agencies and grants to different entities to help fund improvements to water quality; and
- Providing grants and technical assistance to reduce pollution from surface water runoff (also called "nonpoint source" pollution).

Clean Water Standards – Clean water standards are the foundation of the DEQ's water quality program. Standards establish water quality goals by designating beneficial uses for each water body and setting criteria to protect those uses.

Number of water bodies on Oregon's 2010 303(d) List



Beneficial uses include public water supply, fish and aquatic life, recreation, irrigation, and more.

Integrated Report and 303(d) List – Section 303(d) of the CWA requires states to develop a list of water bodies that do not meet the state’s clean water standards. The list is part of a periodic report on water quality throughout the state. DEQ compares data and information from a variety of sources against Oregon’s water quality standards to determine which water bodies should be listed as impaired. DEQ must prioritize the list and submit it to EPA for approval. EPA took final action to approve and add waters to Oregon’s 2010 Section 303(d) list in December 2012. A total of 1,022 of approximately 37,600 water bodies in Oregon (three percent) are on the 303(d) list for one or more pollutants.

Total Maximum Daily Loads – Once a waterbody is placed on the 303(d) list, the CWA requires states to develop a plan to meet clean water standards. This plan is called a TMDL, which describes the maximum amount of pollutants from municipal, industrial, commercial, and surface runoff sources including natural background that can enter waterways without violating clean water standards.

Implementing a TMDL often includes revising industrial and municipal wastewater permits to incorporate revised permit limits. On agricultural lands, implementation plans are developed through the Oregon Department of Agriculture’s

Senate Bill 1010 process. On state and private forestlands, the Department of Forestry has the lead in providing water quality protection through the Forest Practices Act and long-range management plans. In urban areas, local governments take the lead in developing TMDL implementation plans. The U.S. Forest Service and the Bureau of Land Management are responsible for developing water quality restoration plans for lands under their jurisdiction.

Under most circumstances, TMDL implementation plans for improved water quality rely on cooperation among designated management agencies, landowners, and land managers within a river basin. Local watershed councils, Soil and Water Conservation Districts, or other organizations serve as community-based coordination points for these united efforts. TMDL implementation plans describe actions that will be taken to reduce pollution.

Industrial/Domestic Wastewater Permitting – DEQ’s wastewater management program regulates and minimizes adverse impacts of pollution on Oregon’s waters from point sources of pollution. The term “point source” generally refers to wastewater discharged into water or onto lands through a pipe or a discernible channel. These point sources operate under the terms of a federal National Pollutant Discharge Elimination System (NPDES) or state Water Pollution Control Facilities (WPCF) wastewater discharge permit issued by DEQ. DEQ currently

manages over 5,400 federal and state water quality permits. Point sources requiring a NPDES permit include wastewater treatment plants, various industries such as pulp and paper plants and food processors, as well as municipal stormwater systems for Oregon's larger urban areas. In addition, construction sites disturbing more than one acre of land and certain types of industrial facilities are required to have a NPDES permit for stormwater runoff.

Agricultural Water Quality Management – Oregon's Agricultural Water Quality Management Program (**AgWQMP**) is administered by the Oregon Department of Agriculture (**ODA**). AgWQMP's purpose is to prevent and control water pollution from agricultural activities and soil erosion, and help achieve water quality standards by focusing on landscape conditions that provide the functions for healthy watersheds. The landscape-based approach provides landowners with clarity about their responsibilities and focuses on parameters within landowner's control. The program requires farmers and ranchers to meet agricultural water quality regulations, but provides many options in how individuals manage their farms and ranches to provide the outcomes necessary to prevent and control pollution. ODA relies on Soil and Water Conservation Districts to implement AgWQMP through on-the-ground project work.

Water Quality Protection on Forestlands – The Oregon Board of Forestry adopts water protection rules which describe best management practices (**BMPs**) for forest operations on nonfederal forestlands to ensure nonpoint source discharges of pollutants from forest operations do not impair the water quality standards. These rules are implemented and enforced by the Oregon Department of Forestry and monitored to assure their effectiveness. On federal forestlands, DEQ enters into Memoranda of Understanding with the U.S. Forest Service and Bureau of Land Management for managing and controlling nonpoint sources of water pollution. These agreements are periodically reviewed and adjusted as necessary to meet water quality standards.

Recent Legislative Activity

Several water quality-related issues were topics of discussion or bills introduced during the 2013 legislative session.

Suction dredge mining

Concerns over environmental impacts and social conflicts related to suction dredge mining activity led to the adoption of Senate Bill 838 in 2013. Section 8 of the bill directs the Governor's office to consult agencies and other stakeholders to develop a revised regulatory framework for motorized placer mining that addresses these concerns, and to submit these recommendations to the legislature by November 1, 2014. Several state agencies have regulatory authority over various aspects of suction dredge mining activities, including DEQ. DEQ regulates discharges from suction dredges to protect water quality. DEQ is working with the Governor's Office as part of the Senate Bill 838 project team, along with Department of State Lands, Oregon Department of Fish and Wildlife and Oregon State Police.

Onsite septic systems

Concerns about the affordability of meeting regulatory requirements for upgrading failing systems – particularly in the South Deschutes/North Klamath County where groundwater contamination related to septic systems is a concern – led to the introduction of House Bill 3186 and a budget note for DEQ. House Bill 3186 would have required DEQ to seek to minimize the negative economic impacts incurred by homeowners required to install alternative sewage disposal systems. A budget note required DEQ to continue to work with the local Groundwater Protection Project Steering Committee to finalize recommendations to address groundwater protection from onsite systems and to report back to the legislature prior to taking action on any recommendation. The committee's recommendations are presented in this [report](#). DEQ reported to the House Energy and Environment committee in May 2014.

Onsite program

The State and Local Government Efficiency Task Force was created by House Bill 2855 in

2011 to “review opportunities to provide services in the most effective and cost-efficient manner through reorganization of the way services are delivered by state and local government entities and through specific process improvements...” DEQ’s onsite septic system program was one of many services the task force analyzed because it was widely understood that the current business model for implementing the program is not workable. This effort led to the introduction of House Bills 3166 and 3167 during the 2013 session, but neither bill made it out of committee. The legislature directed DEQ, through a budget note, to work with cities, counties, and other stakeholders to identify innovative ways to increase the quality and efficiency of how onsite septic services are delivered across the state, including re-examining the fee schedules and the viability of how the program is currently implemented through a combination of DEQ and contract-county programs. The Association of Oregon Counties (AOC) provided staff support for these efforts and AOC and DEQ jointly presented their [report](#) to the legislature in May 2014. The report supports the idea counties implement the permitting and inspection components of the program while DEQ maintains an oversight role. Since that time, DEQ and AOC have agreed to work together to identify ways to reduce barriers that otherwise prevent the small number of counties currently not managing these functions from making a local decision to take on these responsibilities under the onsite program.

Temperature litigation

Litigation over Oregon’s water quality standard for temperature resulted in a federal judge’s ruling that certain aspects of the standard were invalid. The remainder of the standard remains in effect and that DEQ is still able to issue wastewater permits, but the standard is not optimal for addressing Oregon’s water quality conditions and DEQ will begin a review and possible revision of the standard in the fall of 2014.

In a related suit, litigants challenged EPA’s approval of several temperature TMDLs based on the flawed temperature standard. As of July 2014, this case is scheduled for briefing to the

court beginning in the fall of 2014. In the meantime, the parties continue to discuss possible settlement options.

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Karen Tarnow, Department of Environmental Quality, assisted with the development of this document.

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