

E – O U T L O O K

ENVIRONMENTAL HOT TOPICS AND LEGAL UPDATES

Year 2017

Environmental & Natural Resources Law Section

Issue 2

OREGON STATE BAR

*Editor's Note: This issue provides a list of environmental, natural resources, and energy related bills passed during the 2017 Oregon Legislative Session that may be of interest to section members. This may not be a complete list of legislation that may impact environmental, natural resources, or energy practice areas. *Some of the bills listed have not been signed by Governor Kate Brown at the time this issue was written. For more information about the 2017 Oregon Legislative Session, including bill history and legislative language, please visit <https://www.oregonlegislature.gov/>. For those who prefer to view this article in PDF format, a copy will be posted on the Section's website at: <http://www.osbenviro.homestead.com/>.*

Summary of Oregon's 2017 Environmental, Natural Resources, and Energy Law Legislation

[HB 2099B \(Water\)](#) Summary: Changes water management and conservation plan approval condition for extension of time to construct works or perfect right for municipal use of water. Prohibits issuance of water right certificate for municipal use if an extension of time is required and an order approving the extension has not become final. Declares emergency, effective on passage.

[HB 2295 \(Water\)](#) Summary: Increases fees, maximum fees and fee return thresholds for Water Resources Department services. Makes fee, maximum fee and fee return threshold increases operative July 1, 2017. Eliminates fee, maximum fee and fee return threshold reductions scheduled for July 1, 2017. Declares emergency, effective on passage.

[HB 2462 \(Air\)](#) Summary: Increases amount by which vehicle equipped with fully functional idle reduction system designed to reduce fuel use and emissions from engine idling may exceed maximum weight limitations. Provides limited exemption from maximum weight limitations for vehicle that uses natural gas as its fuel source.

[HB 2968A \(Brownfields\)](#) Summary: Requires the Department of Environmental Quality to carry out a study and propose recommendations for a single, coordinated process that allows parties to satisfy certain federal and state requirements to obtain certain releases from liability for cleanup of hazardous waste. Requires the department to report study results to interim committees of Legislative Assembly on or before September 15, 2018.

HB 3025 (Energy) Summary: Excludes certain battery charger systems from the definition of "battery charger system" for purposes of energy efficiency standards.

SB 333B (Land Use) Summary: Requires the Oregon Business Development Department to consult with the Department of Revenue in establishing and administering the Oregon Industrial Site Readiness Program. Directs the Oregon Business Development Department to obtain employment and wage information for an eligible employer at a regionally significant industrial site and to determine annual amount of estimated incremental income tax revenues generated by an eligible employer per tax year. Requires the Oregon Business Development Department to request that the Oregon Department of Administrative Services certify amounts determined to be estimated incremental income tax revenues. Permits the Employment Department to disclose to the Oregon Business Development Department information required by the Oregon Business Development Department in performing the department's duties with respect to the Oregon Industrial Site Readiness Program. Takes effect on 91st day following adjournment sine die.

***SB 0644B (General) Summary:** Exempts county permit application for mining operation on significant mineral resource site in certain counties from requirements for uses in exclusive farm use zones and statewide land use planning goals and rules relating to land use. Provides exceptions. Requires the State Department of Geology and Mineral Industries to issue a provisional operating permit for mining operations of a significant mineral resource site if the permit contains and applicant meets certain conditions. Requires the department to provide notice of application for operating permit of significant mineral resource site to each permitting agency and cooperating agency and to provide an opportunity to respond, identifying expected adverse effects of proposed operation. Requires the department to include in the operating permit conditions addressing adverse effect under certain circumstances. Requires a project coordinating committee to analyze and address conflict identified by private property owner or lessee within impact area. Requires the department to avoid or minimize conflict through the imposition of permit conditions. Requires the department to activate a project coordinating committee upon receipt of application for non-aggregate mineral mine operating permit to mine significant mineral resource site.

***SB 1008B (Air) Summary:** Authorizes the State of Oregon to receive moneys pursuant to the Volkswagen Environmental Mitigation Trust Agreement, deposit agreement moneys in the Clean Diesel Engine Fund and use moneys to award grants for reducing emissions from school buses powered by diesel engines. Prohibits the Department of Environmental Quality from awarding grants from agreement moneys for any other purpose without prior approval from the Legislative Assembly by law. Adds grants and loans for replacements to permissible uses of moneys in the Clean Diesel Engine Fund. Makes other modifications to provisions for grants and loans from the fund for purpose of reducing emissions from diesel engines. Declares emergency, effective July 1, 2017.

SB 1022B (Regulatory Reform) Summary: Eliminates boards, commissions and other government entities that have ceased to meet or that are no longer serving public good.

SB 5518A (Agency Funding) Summary: Appropriates moneys from the General Fund to the Department of Environmental Quality for certain biennial expenses. Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, specified bond proceeds and specified federal funds, but excluding lottery funds and other federal funds, collected or received by the department. Limits biennial expenditures from lottery moneys allocated from the Parks and Natural Resources Fund to the department. Authorizes specified non-limited expenditures. Limits certain biennial expenditures by the department from federal funds. Declares emergency, effective July 1, 2017.

HB 2038 (Farm-to-School) Summary: Allocates \$4.5 million in funding to Farm-to-School and School Garden programs. This appropriation will preserve the program for the 2017-2019 biennium.

HB 2066 (Bovine Manure Tax Credit) Summary: Part of a larger tax credit package, HB 2066 caps use of the manure digester tax credit at \$5 million annually and ensures that farms of all sizes would be able to qualify for the credit.

HB 2785 (Wetlands Jurisdiction) Summary: Exempts from requirements of removal-fill laws removal or filling, or both, originally intended or subsequently used for establishment, repair, restoration, resumption or replacement of certain uses on lands zoned for exclusive farm use, forest use, or mixed farm and forest use that were established on or before January 1, 2017. Prohibits the Department of State Lands from levying significant fines against farmers who constructed barns and homes in farm fields.

SB 327 (Recreation Liability) Summary: Modifies the definition of “owner” to extend recreational immunity to employees and agents of landowners when acting within the scope of their duties and those with private property interests in land. Eliminates a duty of care to maintain land for entry or use by others for certain purposes. Declares emergency, effective on passage.

E-Outlook August, 2017

If you would like to contribute or have comments, please contact the E-Outlook Editor, Tiffany A. Johnson, at Tiffany.Johnson@state.or.us or (503) 229-6258.