

E – OUTLOOK

ENVIRONMENTAL HOT TOPICS AND LEGAL UPDATES

Year 2009

Environmental & Natural Resources Law Section

Issue 1

OREGON STATE BAR

Editor's Note: In this issue, Michael Campbell of Stoel Rives LLP identifies 2009 Oregon environmental and natural resources legislation of potential interest to section members. This list does not include agency budget bills.

Unless otherwise indicated in the notes, the Governor has approved the listed legislation as of July 28.

<u>Bill Number</u>	<u>Description</u>	<u>Notes</u>
<i>Administrative Law</i>		
SB 274	Allows an agency to overturn an administrative law judge's finding of historical fact only if there is clear and convincing evidence that the finding was wrong (currently historical facts may be overturned if there is only a preponderance of evidence that the finding was wrong).	Governor has not yet signed.
<i>Air Quality</i>		
HB 2671	Allows Metro to use solid waste fees to reduce the environmental effects of generating, collecting, transporting, processing, and disposing of solid waste.	
HB 2952	Relaxes certain air quality permitting requirements for small scale renewable energy facilities.	
SB 102	Enacts new restrictions on the use of wood stoves, including provisions that generally require the removal of older, uncertified stoves upon the sale of a residence.	
SB 103	Revises the Environmental Quality Commission's air emission fee authority.	
SB 104	Revises the method for calculating fees for Title V air emission permits.	
SB 528	Phases out most field burning in the Willamette Valley.	
<i>Climate Change</i>		
HB 2186	Gives the Environmental Quality Commission the authority to adopt low carbon fuel standards; enacts other climate change measures.	
HB 2940	Revises renewable portfolio standards by, among other things, allowing certain older biomass facilities to be used	Governor has not yet signed.

<u>Bill Number</u>	<u>Description</u>	<u>Notes</u>
	to meet standards.	
SB 38	Expands and revises greenhouse gas emission reporting requirements.	
SB 101	Enacts greenhouse gas emission standards for electricity providers.	
<i>Enforcement</i>		
HB 2153	Establishes civil penalties for unauthorized use of State-owned lands.	
SB 105	Increases maximum civil penalties for violations of environmental laws, generally from \$10,000 to \$25,000 per day per violation.	
<i>Miscellaneous</i>		
HB 2230	Revises state agency land use compatibility requirements.	
HB 2544	Establishes an Environmental Literacy Task Force to make recommendations on improving knowledge of environmental issues.	
HB 3037	Establishes a statewide architectural paint stewardship pilot program for recycling and recovering architectural paint.	
<i>Natural Resources</i>		
HB 2155	Clarifies certain aspects of the Department of State Lands removal-fill permit program; adds permit exemptions for certain agricultural and voluntary habitat restoration activities.	
HB 2156	Revises statutory provisions regarding compensatory mitigation and mitigation banks under the removal-fill permit program.	
HB 2216	Establishes and revises provisions for acquiring state forest land; authorizes the Board of Forestry to acquire lands in the Gilchrist area of Klamath County to use as state forest lands.	
HB 2229	Implements some of the recommendations of the "Big Look Task Force" to refine Oregon's land use planning system by, among other things, revising procedures for designating agricultural, forest, and nonresource land and by encouraging more compact urban development.	Governor has not yet signed.
HB 3013	Establishes two pilot marine reserves and provisions for studying additional marine reserves.	
HB 3298	Establishes the Metolius Area of Critical State Concern. (See also HB 2228, which allows the transfer of certain development rights in this area.)	

<u>Bill Number</u>	<u>Description</u>	<u>Notes</u>
SB 76	Establishes utility ratepayer funding mechanisms and other provisions to facilitate the removal of Klamath River dams.	
SB 513	Establishes policies on ecosystem services and establishes a work group to encourage markets for ecosystem services.	
SB 691	Revises compensation claim criteria and procedures for regulations that reduce the value of forest land.	
<i>Toxics</i>		
HB 2999	Extends, suspends, and revises pesticide use reporting requirements.	
SB 596	Bans for sale in Oregon most new products containing the flame retardant decabrominated diphenyl ether.	
<i>Water Quality</i>		
HB 2080	Allows the use of gray water outside homes if authorized by the Department of Environmental Quality.	
HB 2185	Revises the Environmental Quality Commission's authority to establish fees for Clean Water Act section 401 certifications by the Department of Environmental Quality.	
HB 2220	Requires an aquatic invasive species prevention permit for operating motorboats and manually powered boats of more than 10 feet in length; authorizes check stations for inspecting recreational and commercial boats for invasive species; establishes penalties for knowingly transporting aquatic invasive species.	
HB 2625	Authorizes the Department of Environmental Quality to board and inspect vessels to ensure compliance with state ballast water requirements.	
HB 2714	Authorizes the Environmental Quality Commission to establish additional standards for the discharge of ballast water.	
HB 3123	Directs the Department of Environmental Quality to study the effects of discharges of sewage and other materials from vessels and the feasibility of controlling such discharges.	
SB 739	Adds arsenic to the list of substances that the seller of property containing a domestic water well must test for when conveying the property; authorizes the Department of Human Services to adopt rules requiring testing for other substances.	

<u>Bill Number</u>	<u>Description</u>	<u>Notes</u>
<i>Water Resources</i>		
HB 2231	Increases the well "Start Card Fee."	
HB 2232	Requires reports and payment of accompanying fee to the Water Resources Department for certain geotechnical wells.	
HB 3369	Establishes and revises provisions for funding water development projects and requires the Water Resources Department to develop an integrated water resources strategy for Oregon.	Governor has not yet signed
SB 195	Allows small wave energy pilot projects to supply power to the electric energy grid while maintaining their exemption from certain state regulations.	
SB 664	Authorizes the expansion of the water use transfer pilot project program to additional irrigation districts.	
SB 788	Requires map and payment of fee for exempt groundwater wells; increases other fees.	

If you would like to contribute or have comments, please contact the E-Outlook Editor, Hong Huynh at hong.huynh@millernash.com or (503) 205-2485.