

NEWS

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THROWING SHADE, OR NOT

Oregon missing out on EPA funds for clean water programs

PHOTO: ED COOLEY

On Oct. 4 the Environmental Protection Agency announced it was granting \$1.7 million to Oregon's Department of Environmental Quality (DEQ) to help with projects and programs that reduce water pollution. In the press release, EPA administrator Scott Pruitt says the "EPA is making investments like this grant to help empower states who know best how to protect resources, and grow their economy while solving real environmental problems in local communities."

But there's a problem with Pruitt's statement: The EPA doesn't think Oregon "knows best how to protect its resources."

Since 2015, the state has lost more than \$1 million in funding from the EPA's nonpoint source water pollution program because federal agencies say Oregon isn't doing enough to protect coastal watersheds from forestry practices.

Losing this money reduces federal funding for DEQ staff and takes funding away from projects that promote healthy watersheds. But federal agencies say significant measures haven't been taken to address the concerns of federal regulators.

FORESTRY POLLUTION

According to EPA spokesman Mark McIntyre: "Re-evaluation of Oregon's program will begin when Oregon informs the agencies that it has addressed all of the coastal nonpoint program conditions and provides supporting documentation. The agencies continue to encourage Oregon to continue to improve and refine its program to satisfy all coastal nonpoint program requirements."

Nonpoint sources of pollution are any pollution source that doesn't come directly from a single area, such as a factory or sewage treatment plant. Pesticides, oil on roadways and sediment from landslides are a few examples of nonpoint sources.

One of the most common causes of nonpoint source pollution is the warming of waters that lose shade cover due to human activities like logging, road building and floodplain development.

According to a DEQ report published in June, pollution from nonpoint sources accounts for nearly 75 percent of state waterways that exceed legal pollution limits.

Each year since 2015, the EPA has reduced funding by 30 percent of the previous year's grant level. The penalty stems from disapproval of Oregon's coastal nonpoint pollution control program (CZARA) by EPA and the National Oceanic and Atmospheric Administration (NOAA).

The federal agencies found that Oregon "has not implemented or revised management measures, backed by enforceable authorities" to protect riparian areas for small and medium-sized fish bearing and non-fish bearing streams; to address the impacts of forest roads, particularly on so-called "legacy" roads; to protect high-risk landslide areas; or to ensure adequate stream buffers herbicide application, particularly on non-fish bearing streams.

Industry groups and state agencies have pushed back against the decision. In a March 2016 statement titled "Refuting the CZARA disapproval," the Oregon Forest and Industries Council states, "The federal agencies are in error, and their continued focus on forestry is puzzling."

OFIC states that "Oregon has a sound and thorough defense of its regulation and outcomes around all issues raised by the EPA and NOAA — a defense that is backed by extensive research and monitoring."

The organization argues that the goal of federal regulations "seems to be the implementation of prescriptive regulations rather than achieving positive environmental outcomes based on rigorous science."

SHADING THE WATER

One of the best ways to reduce these pollutants is by planting shade cover along waterways and reducing runoff by slowing down polluted water with berms and native vegetation that naturally filter water before it gets to streams and rivers.

In the Eugene area, the Long Tom Watershed Council receives grants from the EPA nonpoint source program that aids them in partnering with local businesses and manufacturers to reduce water pollution.

But Oregon will keep losing money for these types of projects if it doesn't meet federal standards for water protection on the coast.

Though the state DEQ receives federal funding and is responsible for administering water quality programs under the Clean Water Act, Oregon state law gives the Board of Forestry and Oregon Department of Forestry (ODF) the authority to set rules for logging near water bodies.

Coastal rivers are habitat for cutthroat trout and chinook, coho and steelhead salmon — all of which are considered "species of greatest conservation need" by the Oregon Department of Fish and Wildlife. Elevated water temperatures, sediments and herbicide levels in streams and rivers can have harmful effects on these iconic and economically valuable species.

One of the principal means of protecting these fish and the watersheds they depend upon is requiring a buffer of forested area around streams and rivers during logging operations. Federal regulators listed buffers for fish bearing and non-fish bearing streams as a primary concern when they decided not to approve Oregon's coastal water protection plan.

Both California and Washington have larger forest buffer requirements and coastal pollution programs than are approved by federal regulators.

On July 1, the Board of Forestry put in place new streamside buffer rules that provide additional protection for rivers and streams.

The board's decision was informed by data from ODF's multiyear and multi-million dollar RipStream study that tracked the impacts of Oregon Forest Practices rules for private timberlands and compared them with ODF's own management practices. The study found that Oregon's laws for

stream buffers on private timberland did not insure adequate protection for cold water.

In correspondence with *EW*, ODF public affairs director Ken Armstrong writes that the Board of Forestry used the study, "including its limitations and uncertainties, to establish new rules and best management practices to ensure that forest practices meet the 'Protecting Cold Water' criterion of the water quality standard to the maximum extent practicable."

Implementing the new buffers, which will reduce the timber that operators can harvest, is expected to cost timber owners upwards of \$100 million. Small timberland owners will receive some exemptions under the new rules.

The new buffer rules put in place by the Board of Forestry don't match the buffer distance that ODF's study models found necessary to keep stream warming below 0.3 degrees Celsius.

Data from ODF's RipStream study found that, on average, a treed area of at least 90 feet was necessary to prevent warming the water above 0.3 degrees Celsius. Under the rules adopted by the Board of Forestry in July, medium-sized fish bearing streams would get 80-foot buffers and small fish bearing streams would get 60-foot buffers.

Small non-fish bearing streams, which were previously unprotected, will get 20-foot buffers.

In testimony to the Environmental Quality Commission, OFIC representative Heath Curtiss argues that the new rules are based on different management practices than those modeled by the RipStream project. He says the approach adopted in the new rules "has not been modeled, and we believe it is likely that, given an opportunity to implement the rule and observe the results, the new prescriptions will prove efficacious."

Bob Van Dyk, the Oregon and California policy director for the Wild Salmon Center, says the rulemaking was a step in the right direction but doesn't go far enough to protect salmon habitat and prevent warming rivers.

"The buffers that the Board of Forestry picked are less than what ODF and EPA science has shown is necessary to prevent stream warming," Van Dyk says, adding that salmon advocates are worried about the effects climate change might have in further warming these coastal watersheds and have raised concerns that the new rules left out many Southern Oregon watersheds, which have significant salmon populations.

Van Dyk says the new rules are "a political decision about what we value, not just a science decision."

ODF's Armstrong writes, "While most everyone agreed the decision was not easy, the Board reviewed and weighed the merits of the various proposals and adopted a policy believed to provide the least-burdensome impact to landowners while also meeting the Protecting Cold Water standard."

Whether Oregon can prove to federal regulators that the new rules go far enough to protect coastal watersheds, and that EPA should stop withholding funding, is the million-dollar question. ■