
Date: May 2, 2020

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Item I: Policy option package and legislative concept development updates (Informational)
May 7, 2020, EQC meeting

Purpose of item DEQ will present updates on the development of policy option packages and legislative concepts that are under consideration for 2021 Legislative Session.

Budget and legislative agenda development process DEQ continues the development cycle of the agency's biennial budget and legislative priorities for the 2021-23 biennium.

This is an interim update for the commission. There is a high level of uncertainty about the revenue picture for the 21-23 biennium as a result of the economic downturn associated with the COVID-19 pandemic. The next revenue forecast for Oregon will be on May 20th, two weeks after the commission meeting.

At this time, DEQ has not been instructed to alter its 21-23 requests, but that may change following the revenue forecast. As a result, the policy option packages and legislative concepts presented in this agenda item should be viewed as provisional. DEQ will present final recommendations to the EQC following the revenue forecast.

EQC involvement The commission chair is required to certify all agency budget submittals, and the commission will be asked to review and take action for that certification of the 2021-23 Agency Request Budget later in 2020.

Attachments

- A. Budget and legislative development timeline
- B. Draft Legislative Concepts
- C. Draft Policy Option Packages

Report compiled by Stephanie Caldera
Commission assistant

DEQ's 2021-23 Legislative Agenda Development Timeline

January - September 2020: 2021-23 Budget development process begins

- Determine cost of currently approved programs adjusting for 2019-21 costs
- Estimate future revenues (fees and other items paid to DEQ)
- Develop the Trial Budget/affordability for 19-21
 - Shift work between funding sources
 - Establish tentative reductions to balance the 2019-21 Trial Budget
 - Determine which reductions will be made permanent and which DEQ will ask to “restore” through requests for new General Funds, new fees or increases to current fees
- Develop budget reduction options on all funding types (10 and 20 percent reduction levels)
- Refine budget package proposals for new work that DEQ anticipates doing
- Refine legislative concepts

January 2020: Informational opportunities and commission input

- Jan. 13-15, 2020: Legislative Organizing Days, DEQ to present to several committees prior to the Short Legislative Session
- Jan. 23-24, 2020: DEQ presentation on draft working proposals for budget and legislative items for 2021-23, solicitation of EQC feedback and direction

February 2020: Short Legislative session begins (limited to 35 days)

March 2020: Short Session ends

- Mid-March: Budget and Legislative Concept Instructions are released by DAS for the 2021-23 development cycle
- Ongoing legislative concept and budget policy package development

April 2020: Ongoing legislative concept and budget policy package development

- Mid-April: Draft legislative concepts are due to DAS
- Stakeholder outreach

May 2020: Ongoing budget development and stakeholder outreach

- Updates to the commission at regular EQC meeting

June 2020

- Early June: DAS submits approved legislative concepts to Legislative Counsel (must be final by late June)
- DEQ's Agency Request Budget submitted to DAS for audit

July 2020: Budget narrative development, updates to the commission at regular EQC meeting

August 2020

- EQC Chair signs the Budget Certification Form, following DAS audit results, as part of the agency of budget request document
- Budget narrative development
- DEQ continues work with Legislative Counsel on legislative concepts

September 2020: Agency Request Budget document due to DAS and Governor by Sept. 1, 2020

- DEQ continues work with Legislative Counsel on draft bills/legislative concepts

October 2020 – February 2021: Development of budget and legislative materials continues

- DEQ continues to work with Legislative Counsel on draft bills/legislative concepts
- DAS and Governor review DEQ budget request
- DAS Analyst prepares Governor's Recommended Budget.

November 2020: Legislative agenda update as part of the regular EQC meeting

December 2020: Governor's Recommended Budget is released in early December

- Governor's Recommended Budget submitted to the Legislature (early December)
- Governor pre-session files approved bills (early December)

January 2021

- Early January: Organizing days (committee meetings and other activities)
- Mid-January: Pre-Session review of legislative agenda and activities as part of the EQC meeting

February 2021: Regular Legislative Session begins (first week)

Last updated: May 2, 2020

DEQ 2021-23 Legislative Concepts

Topic	Goal	Background	Concept Description
AIR QUALITY			
EV Rebates	PLACEHOLDER—Extend the Oregon Clean Vehicle Rebate Program beyond the current sunset date.	Incentivizing the purchase and lease of EVs has been shown to be effective in encouraging this choice and is a critical element of the state’s strategy to meet our EV goals. Oregon has an existing EV Rebate program – known as the Oregon Clean Vehicle Rebate. That program sunsets, by statute, on Jan. 1, 2024.	The details of this proposed legislative concept are not finalized. The agency is exploring options to extend the Oregon Clean Vehicle Rebate Program and identify long-term funding.
GHG Reduction	PLACEHOLDER—Assure program effectiveness	DEQ is responsible for implementing a number of programs to reduce greenhouse gas emissions, including regulatory programs that will cap and reduce emissions from large stationary sources and fuel suppliers.	As DEQ develops a plan for implementation of the Cap and Reduce program, the agency expects to identify needed statute clarifications to existing agency authorities. This LC is a placeholder for those modifications that may be necessary.
LAND QUALITY			
Modernizing Oregon’s Recycling System	PLACEHOLDER—Address challenges in Oregon’s recycling system	Recycling has the potential to conserve resources and reduce pollution, but Oregon’s policy framework for recycling was constructed decades ago, when the waste stream, recycling technologies, and economics were all fundamentally different. The recent collapse of export markets has exposed gaps in current policy and profound challenges to the future of recycling. A Recycling Steering Committee, convened by DEQ in 2018, has been working to develop recommendations to modernize Oregon’s recycling system, including for both policies and infrastructure.	The Recycling Steering Committee has been working to develop recommendations to modernize Oregon’s recycling system, including for both policies and infrastructure. These recommendations are currently under development with the committee. This LC will address all of the challenges identified by the committee including: <ul style="list-style-type: none"> • contamination by generators, • lack of meaningful engagement by producers (including unreliable markets and unfavorable economics), and • lack of effective oversight of processing and marketing of recyclable material

<p>Hazardous Waste Fee Structure Modernization</p>	<p>PLACEHOLDER—Restructure hazardous waste fees</p>	<p>DEQ's Hazardous Waste and Environmental Cleanup Programs are operating without sufficient funds to fill current vacancies and maintain program service levels. The fees are set in statute and have not been adjusted to adequately address program needs for quite some time.</p>	<p>DEQ proposes to raise its hazardous waste fees to more closely align with program needs and to tie fees in the future with either inflation or the consumer price index. This will provide greater stability and predictability to the program and stakeholders. Three fees are to be addressed are:</p> <ul style="list-style-type: none"> • Hazardous waste generator annual fee, ORS 466.165, • Hazardous waste permit renewal application form fee, ORS 466.045 and, • Hazardous waste monthly operators (disposal tip) fees, ORS 465.375, and Special hazardous waste management (disposal tip) fees, ORS 465.376. Statutory changes will aim to modernize and streamline fees and fee structures while closing the gap between program revenue and program need.
WATER QUALITY			
<p>Evaluation of Groundwater Quality Protection Act</p>	<p>Evaluation of and recommend changes related to the effectiveness of Groundwater Quality Protection Act</p>	<p>Since the passage of the Oregon Groundwater Quality Protection Act, there has never been an evaluation to determine the Act's effectiveness or adequacy. To ensure that Oregon's groundwater resources are protected and restored to meet current and future demands, an evaluation is needed to determine the extent to which the strategies established in the Act, and state agency efforts on implementation, are effective in achieving the intended objectives.</p>	<p>This LC would require DEQ to:</p> <ul style="list-style-type: none"> • Develop a RFP for an evaluation of the effectiveness of current groundwater quality protection statutes, including: <ul style="list-style-type: none"> ○ Identification of potential policy or regulatory gaps in statute or in implementation of the statute, and ○ Identification of recommendations for any potential legislation needed to successfully achieve the state's groundwater goals; and • Establish a taskforce to evaluate the study's findings, make recommendations on whether changes to statute or state regulations are needed to achieve the Act's goals
AGENCY MANAGEMENT			
<p>Environmental Justice</p>	<p>PLACEHOLDER—Strengthen the state's EJ work to better assist communities in preparing for the effects of climate change</p>	<p>Climate change affects everyone, but communities of color, rural communities, immigrants, refugees, and Native people are and have been the most impacted by climate change and environmental degradation. As DEQ works to implement our current programs and responsibilities the agency is</p>	<p>Specific changes are still being developed through conversations with the Governor's Office, as well as the work associated with DLCD's climate adaptation framework and OHA's Climate and Health Program's Equity Workgroup.</p>

		committed to the principle that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal and commercial operations or the execution of federal, state, local and tribal environmental programs and policies.	
EDMS Credit Card Convenience Fee	PLACEHOLDER—Process credit card convenience fee	DEQ will be charged a credit card convenience fee for each credit card transaction processed through EDMS. The agency currently does not have a mechanism for recouping those costs.	LC would provide DEQ authority to pass the credit card fee charged per transaction on to the consumer.
EDMS Maintenance Funding	PLACEHOLDER—EDMS Maintenance Funding	The Environmental Data Management System (EDMS) project will help DEQ to manage workflows, data acquisition, and enterprise reporting related to core agency business processes. DEQ must establish a mechanism for the ongoing costs associated with the hosting and maintenance of the product.	This LC would provide DEQ authority to recover ongoing costs by allowing a percentage fee on all invoices generated for customers using EDMS services.

DEQ 2021-23 Policy Option Packages

	Goal	Background	Budget Request
AIR QUALITY			
Clean Diesel	Reduce diesel emissions in Portland metro area	This package will allow DEQ to fully implement the requirements of HB 2007, a bill to accelerate the clean-up of older diesel trucks in the Portland metro area. DEQ receive partial funding to implement this bill in 2019. To complete the work, DEQ will need staff and IT upgrades to certify compliance with approved retrofits. The agency expects two major waves of work as truck phase out deadlines hit in 2023 and 2025.	General Fund 2 Positions
Asbestos Fee	Maintain effective program operations	The asbestos program protects construction workers and the public from the harmful effects of asbestos exposure. To sustain adequate staffing and ensure timely processing of project notifications and credential training for providers, the program requires a 20 percent fee increase. Fees have not been adjusted for over 10 years.	Other Fund No positions
GHG Reduction	Implement Executive Order 20-04 related to reducing GHG emissions in Oregon.	Governor Brown issued Executive Order 20-04 in March 2020, which directed state agencies to meet GHG reduction targets. Under the order, DEQ is implementing programs to reduce greenhouse gas emissions, including key elements of the Statewide Transportation Strategy and regulatory programs that will require large sources and fuel suppliers to cap and reduce emissions. This package will address the resources needed to operate the programs once they are put in place.	Other Fund/General Fund <i>(current positions are part of base budget)</i>
Vehicle Inspection Program	Restore positions lost due to revenue shortfall	The Vehicle Inspection Program remains a critical air quality improvement strategy, particularly in addressing ozone in the Portland and Medford areas. Without VIP, DEQ would need to demonstrate pollution reductions in other sectors to meet federal air quality requirements. DEQ will seek ratification of a modest fee increase	Restore 8.0 FTE. This package will include position authority and ratification of a fee increase.

		which is needed to ensure adequate staffing, low wait times and improvements to DEQ Too – a public-private testing partnership.	
Lane Regional Air District Funding	Restore adequate funding for LRAPA	LRAPA experienced significant general fund cuts in 07-09 that have not been restored. As a result, the program is increasingly unable to maintain adequate operations. This package would ensure that the communities and businesses in Lane County receive the same level of funding and services as the rest of Oregon. Specifically, this funding would support air monitoring, home wood heating, and outreach and education.	Approximately \$275,000 General Fund
LAND QUALITY			
Emergency Response	Stabilize emergency response capacity	When oil or hazardous waste spills occur, response time is critical. The faster official responders arrive, the better the chances of minimizing environmental damage and potential health impacts. DEQ emergency operations staff play a crucial role in assessing potential impacts and taking action to control spills and begin clean-up work. DEQ’s Emergency Response Program provides for a flexible, efficient use of our resources to protect human health and the environment. Current resources are not sufficient to address significant spills requiring a sustained incident management team, or provide support for local disaster response coordination. This package adds five positions using a combination of general fund, other fund and potentially agency indirect to support this work.	Other Fund, General Fund 5 Positions
Modernizing Oregon’s Recycling System	Update recycling framework	Oregon’s policy framework for recycling was designed decades ago when technology and the economics were fundamentally different. To respond to changing conditions, DEQ convened a recycling steering committee in 2018 to develop recommendations to modernize Oregon’s recycling system. DEQ is proposing a legislative concept and corresponding policy option package to implement this work.	Other Fund Positions TBD

Hazardous Waste Fee Structure Modernization	Restructure hazardous waste fees	DEQ's Hazardous Waste and Environmental Cleanup Programs are operating without sufficient funds to maintain program service levels. DEQ proposes to raise its hazardous waste fees to provide greater stability and predictability to the program and stakeholders. Three fees are to be addressed are: <ul style="list-style-type: none"> • Hazardous waste generator annual fee, ORS 466.165, • Hazardous waste permit renewal application form fee, ORS 466.045 and, • Hazardous waste monthly operators (disposal tip) fees, ORS 465.375, and Special hazardous waste management (disposal tip) fees, ORS 465.376. 	Other Fund 2 Positions
Solid Waste Orphan Fund	Position authority for Solid Waste Orphan Site program	This package converts limited duration positions received in the 2019 legislative session to permanent positions in order to support the Solid Waste Orphan Site Clean Up program. This proposal calls for the use of existing funding and only seeks position authority.	Existing Other Fund 2 Positions
Industrial Orphan Bond	Support Orphan Clean Up program	This package addresses funding for a bond sale that is needed every four years to fund the Industrial Orphan cleanup program.	Other Fund No Positions
WATER QUALITY			
Wastewater Permitting	Improve wastewater permitting quality, efficiency and accountability	This package will support continued investments in core programmatic NPDES and WPCF permitting functions necessary to improved the quality and timeliness of permits. The requested positions represent a second phase of investment, consistent with multi-biennium planning initiated by key stakeholders during the 2019 session, to right-size the DEQ water quality permitting program. The package will support statewide resources dedicated to permit development (individual and general), and compliance verification.	Other Fund/General Fund 5-8 Positions
Stormwater	Improve Stormwater program activities to meet growing permit coverage demands	This package will support one regional position and one policy position to improve DEQ capacity to meet growing demands related to industrial and construction Stormwater general permits. These resources will help ensure that DEQ reviews	Other Fund/General Fund 2 Positions

		and approves reports in a timely way, inspection frequency goals are met and provide for improved response to stormwater-related complaints.	
Onsite	Improve capacity to provide services and support for large onsite systems	This package will improve capacity to ensure that large onsite septic systems are properly functioning and that water pollution and public health risks are prevented. These resources also will speed permit development, plan review, inspections, and technical assistance. Greater capacity will also improve response time to complaints, surfacing sewage and public health threats.	Other Fund/General Fund 2 Positions
Clean Watershed Plans	Improve data-driven support for TMDL development and implementation	This package will support TMDL implementation and development efforts. These services, including data collection, data management and analysis, support the work of sister natural resource agencies (e.g. ODA, OWEB, ODF) and other designated management agencies, that are responsible for preparing and executing TMDL implementation plans that are designed to meet water quality standards. This package also includes resources that would contribute to development of high priority TMDLs in eastern Oregon, including for the Snake River.	General Fund 4 Positions
Clean Water State Revolving Fund	Modernize CWSRF Loan Management software systems	DEQ administers the CWSRF to make low interest loans to public entities for wastewater treatment infrastructure and water quality improvement projects. This package funds loan management software to replace DEQ's manual and outdated systems with a secure system that will increase efficiency, improve customer service and reduce risk for material errors. The 2019 Legislature provided authorization for the agency to develop plans for this software upgrade, and the agency anticipates being able to go out for procurement during the 2021-23 biennium.	Other Fund (limitation only) 0 positions
401 Water Certification	Increase capacity to process 401 applications and issue WQ certifications	This package will improve capacity to review dredge and fill applications and issue water quality certifications to assure that the activities being authorized will meet state water quality standards. It will also support site inspections to ensure compliance and measure program effectiveness; increase proactive technical	General Fund 1 position

		assistance to applicants; and provide needed outreach to a diverse group of stakeholders/applicants that rely on 401 program functionality.	
Ground Water	Improving effectiveness of ground water protection	This package will support DEQ developing an RFP for evaluation of effectiveness of laws and programs related to ground water protection and implementation of laws. Establishes an interagency Task Force on Ground Water Quality (including DEQ, ODA, OHA).	General Fund (contract services) No positions
LAB			
Lab Infrastructure	Maintain Lab Equipment and Infrastructure capabilities	This package increases base funding for the DEQ laboratory to maintain and replace aging equipment. This package also adds critically needed staff capacity to support lab services, coordinate grants, and better manage lab operations and facilities.	General Fund 2 Positions
AGENCY MANAGEMENT			
Agency Support Staffing	Support Staffing	The 2019 Legislature approved over 50 new positions at DEQ, largely focused on core regulatory programs and projects. Additional central service positions--funded through agency indirect -- are needed to keep up with demand for HR, IT, Payroll, and other support functions created by this new staffing.	Other Fund (agency indirect) 5 Positions
EDMS Maintenance Funding	EDMS Maintenance Funding	The Environmental Data Management System (EDMS) project is helping DEQ manage workflows, data acquisition, and enterprise reporting related to core agency business processes. EDMS also is designed to make it easier and more efficient for regulated entities to work with DEQ, and for the public to access data collected by DEQ. The 2019 Legislature approved bond funding for the acquisition and customization of the EDMS, but there are additional costs associated with licensing and maintenance. DEQ is proposing a mechanism to charge the ongoing costs associated with the hosting and maintenance of the product through a modest surcharge on subprograms utilizing the system.	\$1.6 million Other Fund