

State of Oregon  
Department of Environmental Quality

Memorandum

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**Date:** March 6, 2018

**To:** Environmental Quality Commission

**From:** Richard Whitman, Director

**Subject:** Agenda item D, Action item: Process for the Development of 2019-21 Agency Request Budget and draft Legislative Concepts  
March 21-22, 2018, EQC meeting

**Purpose of item** DEQ will present updates on its process for developing the 2019-21 Agency Request Budget, including multiple opportunities for EQC and public engagement.

Second, DEQ will present the draft Legislative Concepts for the commission's review and approval. If approved, DEQ will refine the Legislative Concepts and submit them for consideration as part of the 2019 Legislative Session.

**Background** DEQ must develop an agency budget every two years. The budget development process has three major phases: the Agency Request Budget, ARB, the Governor's Budget, GRB, and the Legislatively Adopted Budget, LAB. Agencies initiate the budget process early in even-numbered years, and submit a proposed two-year budget by September 1 of each even-numbered year. The ARB is the first phase in the budget process. Following the submission of the ARB, the proposed budget is first reviewed by the Department of Administrative Services, which makes recommendations to the Governor. The Governor then prepares her proposed budget to the Oregon legislature in the late fall of 2018 preceding the upcoming long legislative session in 2019. The legislature will approve a final budget in the early summer of 2019.

In the ARB, agencies typically describe their core mission, objectives, and program priorities, and provide budget information on past, current, and future biennia. The ARB reflects the agency's policy agenda and its financial plan. It can include proposals for new programs, program expansions or changes, or for program elimination. The document consists of descriptive narratives, budget forms, and audited reports.

DEQ presented an initial ARB development and engagement timeline at the January 2018 EQC meeting. Based on that timeline and discussion with the commission, DEQ revised its draft Legislative Concepts and solicited additional feedback from agency staff, government partners and other interested parties.

<b>DEQ recommendation and EQC motion</b>	DEQ recommends that the commission approve the draft Legislative Concepts, as seen in attachment B to this report, and that the commission direct DEQ to refine the draft for submittal to the Legislative Fiscal Office for consideration during the 2019 Legislative Session.
<b>Attachment</b>	A. Agency Request Budget development timeline B. 2019-21 draft Legislative Concepts
<b>EQC involvement</b>	DEQ will provide budgetary and legislative updates at each commission meeting, or as otherwise requested.

Report compiled by Stephanie Caldera  
*Commission assistant*

## **DEQ Legislative Agenda/Budget Development Timeline (2019-2021)**

### **2018: Short Legislative Session, Agency Request Budget development**

#### **January - June 2018: Initial development of Agency Request Budget**

##### January 2018

- Legislative Days (January 10-12)
- EQC meeting (January 18-19)
  - Budget Update
  - Projected General Fund availability for 2019-21 and implications for funding prospective policy packages
  - Preview of 2018 Session
  - Preview of potential legislative concepts and budget policy packages for 2019

##### February 2018

- Legislative Session begins (2/5)

##### March 2018

- Stakeholder outreach (March 1 meeting)
- Legislative Session statutory end date (March 11)
- Budget and Legislative Concept Instructions are released by DAS
- EQC meeting (March 21-22)
  - Review and approve draft Legislative Concepts

##### April 2018

- Legislative Concepts are due to DAS
- Additional stakeholder outreach

##### May 2018

- EQC meeting (May 10-11)
  - Update on legislative agenda
  - Finalize budget decisions prior to budget submittal to DAS for audit
- Additional stakeholder outreach

##### June 2018

- DAS submits approved Legislative Concepts to Legislative Counsel
- Deadline to modify Legislative Concepts
- Budget request submitted to DAS for audit

#### **July – December 2018: Finalize Agency Request Budget, other legislative preparation**

##### July 2018

- EQC meeting (July 12-13)
  - Legislative agenda update
  - Chair signs the Budget Certification Form (part of the ARB, if ready)

- Budget narrative development

#### August 2018

- Budget narrative development
- Work with Legislative Counsel on Legislative Concepts

#### September 2018

- Agency Request Budget document due to DAS and Governor (September 1)
- EQC meeting (September 13-14)
- Work with Legislative Counsel on legislative concepts
- Stakeholder engagement

#### October 2018

- DAS and Governor review DEQ budget request
- DAS analyst prepares Governor's Recommended Budget.

#### November 2018

- EQC meeting (November 15-16)

#### December 2018

- Governor's Recommended Budget is released
- Stakeholder engagement
- Governor pre-session files approved bills

## 2019: Long Legislative Session (January-June)

#### January 2019

- Legislative Session organizational days
- EQC meeting
  - Pre-Session review of legislative agenda and session activities

#### February 2019

- 2019 Legislative Session begins

#### March 2019

- Ways and Means presentation
- EQC meeting

April 2019 – *Session continues, no budget milestones planned for this time*

#### May 2019

- EQC meeting

#### June 2019

- DEQ Budget approved (*typical date*)

#### July 2019

- Sine die (session ends)
- EQC meeting



## DEQ Potential 2019-21 Legislative Concepts

Topic	Goal	Background	LC Concept Description
<b>AIR QUALITY</b>			
Diesel	Reduce diesel emissions.	SB 1007 (2017) limited the use of Oregon's \$70 million Volkswagen settlement funds to school bus projects, though the settlement allows for broader retrofitting or replacement of older diesel powered vehicles and equipment.	Allow Volkswagen settlement funds to be used to retrofit or replace a wider-variety of trucks and diesel powered equipment and electric vehicle charging infrastructure than currently allowed for in statute.
Permitting	Adequately resource the program.	A recent Secretary of State audit found nearly 40% of the most complex air quality permits are not renewed on time. Staffing levels have been decreasing, most recently six air permitting positions were cut in the 2017-19 LAB due to revenue shortfalls. Additional resources are necessary to eliminate this permit backlog and ensure timely permit renewals	Raise Title V air quality permit fees and make changes that lead to more predictable Air Contaminant Discharge Permit fee increases.
Enforcement	Technical fix	HB 2712 (2011), designed to streamline collection of money for DOJ, unintentionally limited DEQ's ability to pursue instances of air pollution that are not witnessed by a law enforcement officer by classifying air pollution in the second degree as a specific fine violation instead of as a criminal offense.	Modify statute to make it a criminal offense, because "violations" must be witnessed by an officer, which hampers DEQ's ability to refer the matters to a county district attorney or DOJ.
<b>LAND QUALITY</b>			
High Hazard Rail	Address regulatory gaps and threats related to increased transport of large volumes of oil by rail.	Oregon is currently under-prepared to mount a significant response to both oil and hazardous materials substance releases to protect critical resources along our inland rail corridors. DEQ lacks the ability to review and evaluate rail operator's capacity to respond to spills from trains transporting oil in Oregon. This limits DEQ's capacity and authority to coordinate with key stakeholders to identify critical resources at risk along high hazard rail corridors and locally tailored spill response strategies. Washington and California have addressed similar regulatory gaps in recent years.	Establish DEQ authority to review and approve industry contingency plans and to obtain resources for developing locally tailored Geographic Response Plans along high hazard rail corridors.

Spill Prevention	Maintain current service levels.	DEQ's Oil Spill Prevention and Contingency Planning program is funded by fees from vessels and barges that transport large quantities of petroleum in bulk and large facilities that transfer petroleum by pipeline over water. Stakeholders supported a modest fee increase in 2015 with the understanding that an additional increase would be likely in 2019.	Increase fees assessed on commercial vessels and facilities transferring oil over waters.
Solid Waste Orphan	Enhance DEQ's ability to apply existing fee revenue to a wider variety of project activities.	Current statutory limitations on the use of the solid waste orphan account are highly restrictive.	A statute change would allow application of available funds to a wider variety of cleanup project needs.
Dry Cleaner Sunset	Eliminate program in 2020.	The Legislature established the Dry Cleaner Program in 1995 to create a clean-up program funded by operators. Persistent revenue shortfalls and inability to achieve sustainable fee structure have compromised program goals and ability to meet cleanup objectives. Program administrative costs will soon exceed revenue.	Sunset program activities in 2020.
Drug Take Back	Ensure proper disposal of unused medicine through Product Stewardship Program.	Unused prescription drugs and improper disposal creates harmful environmental impacts on water quality, as well as accidental poisonings and intentional misuse.	Create a safe statewide system for the collection and disposal of unneeded medicines. Require drug manufacturers to that sell drugs in Oregon to establish and implement a safe drug disposal system that provides convenient collection system across the state.
Heating Oil Tank Fees	Maintain current service levels.	DEQ's Heating Oil Tank Program reviews and processes tank decommissioning and other associated permits that can have time-sensitive implications for real estate transactions. Fees to support these program activities have not been increased since prior to the 2008 recession.	Increase Heating Oil Tank Program fees.
<b>WATER QUALITY</b>			
Groundwater Protection	Ensure policy framework is meeting public expectations for protecting groundwater quality.	The Oregon Legislature adopted the Oregon Groundwater Quality Protection Act in 1989 with the goal of preventing contamination of groundwater and conserving, restoring and maintaining Oregon's groundwater resource for present and future uses.	Nothing definitive at this time. Discuss statutes with stakeholders to determine whether changes or updates to statutes are warranted.