

**Date:** April 23, 2018

**To:** Environmental Quality Commission

**From:** Richard Whitman, Director

**Subject:** Agenda item O, Action item: Draft proposed Policy Option Packages  
May 10-11, 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 Policy Option Packages for the commission's review and approval. If approved, DEQ will continue to develop the POPs and bring them back to the commission for final review.

**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 a 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 initial ARB concepts and an engagement timeline at the January 2018 EQC meeting. The commission approved draft LCs at its March meeting. Since then, DEQ has met with the commission, external stakeholders and others to review the proposed Legislative Concepts and Policy Option Packages.

**DEQ recommendation and EQC motion** DEQ recommends that the commission approve the continuing development of agency POPs, as seen in attachment B to this report.

**Attachment** A. Agency Request Budget development timeline  
B. 2019-21 draft Policy Option Packages

**EQC involvement** 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
- Special meeting for EQC approval of budget (date TBD)

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



## DRAFT Policy Option Packages

Topic	Background	Request	Risks of not funding	Cost and Fund Type
<b>AIR QUALITY</b>				
Part 1) ACDP and Title V Permitting	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 ensure timely permit renewals.	<ul style="list-style-type: none"> <li>• Increase fees to, at minimum, restore positions cut during the 2017-19 LAB and potentially seek to improve the agency's level of service.</li> <li>• Package will be focused on the timely renewal of permits, response to community requests for information, and compliance.</li> </ul>	Not resourcing the permitting program will result in a growing backlog of permit renewals and compliance work, particularly for the more complex permits.	Other Fund (fees) to support approximately 9.0 FTE
Part 2) Greenhouse Gas Reporting Fees	HB 5201 (2018) directed DEQ to expand its greenhouse gas reporting program and authorized two new positions associated with this work.	Increase greenhouse gas reporting fees in order to support these positions and work in the 2019-2021 biennium and beyond.	Delayed expansion of reporting requirements.	Other Fund (fees) to support 2.0 FTE

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Vehicle Inspection Program certification fees	VIP is critical to ensuring the air quality in the Portland-metro and Rogue Valley areas.	Implement a phased-in fee increase to ensure the program can maintain its current level of service and continue implementing innovative approaches to testing.	The Vehicle Inspection Program is projecting revenue shortfalls and will need to eliminate positions to balance. This will result in longer wait times at the stations and other service delivery issues.	Other Fund (fee) increase. Amount TBD.
Wood Smoke Reduction	HB 3068 (2015) directed DEQ to convene a task force to develop recommendation for reducing wood smoke.	Implement some of the task force's recommendations, especially those aimed at expanding the types of assistance made available to local communities who are at risk of violating federal air quality standards.	DEQ's support to local nonattainment communities is not keeping pace with need. Failure to invest more in wood smoke reduction efforts could keep some communities in nonattainment and/or lead to air quality standard violations in communities that are currently in attainment.	General Fund package. Amount TBD.
<b>LAND QUALITY</b>				
Disaster preparedness and response	DEQ's Emergency Response Program does not have adequate resources to fulfill its responsibilities to prepare for, mitigate the risk of, and respond to large scale incidents. These include oil and HAZMAT releases during a catastrophic seismic event and other area-wide disasters. DEQ is responsible for addressing the environmental and potential longer-term health effects of such events.	DEQ is requesting resources to: <ul style="list-style-type: none"> <li>• Perform required emergency response functions as mandated under ORS 401.</li> <li>• Work with entities transporting oil and hazardous materials to plan and train for response to larger-scale spills and other releases.</li> <li>• Develop preparedness and mitigation plans for a major seismic event and related business continuity planning needs;</li> <li>• Evaluate facilities possessing hazardous materials in high hazard zones to characterize risks and prioritize response strategies.</li> </ul>	Limited capacity to plan, train, mitigate, respond to, and recover from large spills and catastrophic emergencies. Limited capacity related to business continuity planning.	Approximately 4.5 - 6 FTE. Funding sources TBD.

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High-hazard 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. Washington and California have addressed similar regulatory gaps in recent years.	Establish DEQ authority to review and approve industry-prepared contingency plans and to obtain resources for developing locally tailored Geographic Response Plans along high hazard rail corridors.	Lack of ability to review and evaluate rail operator's capacity to respond to spills from trains transporting oil in Oregon. Limited capacity or authority for DEQ to coordinate with key stakeholders to identify critical resources at risk along high hazard rail corridors and locally tailored spill response strategies.	Approximately 1.5 FTE limited duration; and 1.5 FTE ongoing. Funding sources TBD.
Increase fees to support Spill Prevention Program activities	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.	Increase fees assessed on commercial vessels and facilities transferring oil over waters. Stakeholders supported a modest fee increase in 2015 with the understanding that an additional increase would be likely in 2019.	Reduced capacity for prevention and contingency planning activities, as well as participation in drills and exercises.	OF. Amount TBD.
Increase Heating Oil Tank Program fees	DEQ's Heating Oil Tank Program reviews and processes tank decommissioning and other associated permits that can have time sensitive implications for real estate transitions. The program is unable to provide adequate project oversight and auditing due to diminished staff levels increasing potential health risks from exposure to contamination.	Increase fees to support these program activities. Fees have not been increased since prior to the 2008 recession.	Reduced ability to respond to time sensitive real-estate transactions.	OF
Enhance use of Solid Waste Orphan Fund	The Solid Waste Orphan Fund existing fee revenue is underutilized.	Enhance capacity to utilize the Solid Waste Orphan Fund with additional staff and contracts.	Inability to apply existing funds to meet the intent of the statute.	OF

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Establish Drug Take Back product stewardship	Unused, expired and leftover medicines accumulate in homes and increase the risks of drug abuse, overdoses and preventable poisonings. Flushing drugs or throwing them in the trash poses potential safety and health hazards. Oregonians need a safe, convenient, responsible way to dispose of unused medication.	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.	Harmful environmental effects on water quality, as well as accidental poisonings and intentional misuse.	Approximately 1.0 FTE limited duration; and 0.6 FTE ongoing OF
<b>WATER QUALITY</b>				
<b>Clean and Healthy Waterways.</b> DEQ's Water Quality program requires resources to fulfill its responsibilities related to water quality standards, watershed restoration, permitting and compliance. DEQ is currently defending two lawsuits that could force a faster pace of both permit issuance (for federal NPDES permits) and Clean Water Plans (TMDLs). This proposal may also consider statutory changes to better align incentives for permit renewals to occur in a timely manner.				
Water Quality Standards and Variances	Address workload more timely and effectively.	Support development and implementation of water quality standards, including developing variances and other strategies for implementing standards in permits and TMDLs.	Growing backlog of standards needing updating; delays in issuance of permits and TMDLs.	2 FTE, GF/LF
Riparian Assessment and Evaluation	Improve watershed protection and restoration outcomes.	Additional resources to systematically evaluate riparian conditions and produce information for agencies, land managers and the public that can be used to guide water quality improvement efforts, including the multi-agency Coordinated Streamside Management initiative.	Missed opportunities to identify and direct investments toward conservation projects with the highest cost/benefit ratio.	3 FTE, GF/LF
TMDL Development and Implementation	When a water body does not meet water quality standards, DEQ determines the amount of pollution reduction that needs to occur to meet standards and works with local entities	Additional resources to develop and oversee implementation of TMDLs.	Delays in water quality improvements; barriers to economic development where existing or new facilities need wastewater discharge permits.	TBD, GF/LF  <i>One TMDL "team" includes three positions; workload</i>



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		to develop a plan to meet pollutant reduction targets. DEQ then works with local entities to ensure water quality improvement efforts are implemented and effective.			<i>evaluation underway to determine number of teams needed.</i>
	Wastewater and Stormwater Permitting (NPDES and WPCF individual and general permits)	DEQ must address the backlog of permits and create a fully functional and sustainable permitting program.	Make initial investment toward “right-sizing” program by providing adequate level of FTE to support timely permit issuance and renewal and adequate resources for compliance oversight, enforcement, policy development, and information and data management.	Inability to achieve permit renewal timeliness and quality objectives, ensure compliance, meet essential TA needs, and engage effectively with stakeholders.	Potentially ~14-20 FTE 60% OF/40% GF
<b>Helping Communities Meet their Wastewater Treatment Needs.</b> DEQ has historically provided significant technical support to dischargers (especially small communities), ranging from consultative advice on permit development, providing alternatives to compliance, and even offering advice on treatment plant operations. These needs are real and are not diminishing, yet DEQ is not currently funded to do the work and this “extra” workload contributes to the permit backlog and other permit program deficiencies. DEQ either needs to be resourced for this work or other solutions, such as developing capacity for technical assistance from other low or no-cost providers, must be found. DEQ is also anticipating increasing demand for CWSRF loans, which will require further work to assure the long term sustainability of the fund.					
	Technical Assistance to Smaller Communities	Communities continue to struggle with deficient wastewater treatment systems and non-compliance.	Identify appropriate funding and delivery mechanisms for technical support that smaller communities need to understand how to comply with wastewater permits and plan for necessary upgrades in order to achieve and maintain permit compliance.	Inability to meet community needs.	TBD
	CWSRF Loan Portfolio Strategist	The Clean Water State Revolving Fund loan program provides low-cost loans for the planning, design and construction of various water pollution control activities. Any public agency in Oregon is eligible for a CWSRF loan. Eligible public agencies include tribal	Provide strategic leadership for managing DEQ’s Clean Water State Revolving Fund and leveraging other funding sources.	Inability to meet future needs for financial assistance.	1 FTE [Self-financed by CWSRF program]

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		nations, cities, counties, sanitary districts, soil and water conservation districts, irrigation districts and various special districts and certain intergovernmental entities.			
	Onsite Septic Program	DEQ regulates the siting, design, installation and ongoing operation and maintenance of septic systems. Without this oversight, septic systems can fail or malfunction, pollute Oregon's land and waterways with raw sewage and create public health hazards.	Increase fees to cover increased cost of existing staff and ensure adequate staffing to manage direct service workload and fulfill county oversight responsibilities.	Inability to meet customer service timeliness targets; inadequate support and oversight for contract counties.	TBD
	Groundwater Protection	Groundwater is vital to the public health, economy, and environment of Oregon. DEQ has the primary authority for groundwater quality protection.	Support local community efforts to identify and address causes of groundwater contamination.	Worsening trends in groundwater quality.	1-2 FTE GF
	Harmful Algae Blooms	Prompt and coordinated program to identify and respond to HABs.	Ability to identify HABs and respond when an algae bloom is reported to determine when toxins are present and if so, when they have dissipated.	Gaps in public health protection; unnecessary disruptions to recreationists and local businesses.	TBD GF
	Assess Oregon's Long Term Need for Water Infrastructure	There are multiple partial assessments of the needs of Oregon's communities for water quality related infrastructure. In conjunction with other partners, DEQ wants to establish clear, long term plans for identifying, prioritizing, and meeting these needs.	Coordinated, multi-agency request (OWRD, DEQ and possibly others) for resources to conduct an inventory and identify planning approaches.	Failure to meet community needs for water quality infrastructure.	TBD. Likely GF.

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Klamath Basin Water Quality Improvement	High nutrient levels in Upper Klamath Lake and the Klamath River are currently significant threats to several species of suckers and salmon.	Coordinated, multi-agency request (OWEB, DEQ, ODFW, OWRD) currently under development. Initial priority projects identified as interim measures under the Klamath Hydroelectric Settlement Agreement (KHSA). Additional work in coordination with ODA, the Bureau of Reclamation, U.S. Fish and Wildlife, area landowners and the Klamath Tribes.	Failure to address this issue will likely place additional regulatory pressure on basin landowners concerning water use and water management, and could further destabilize agriculture in the basin. These fisheries are key cultural and economic resources for several federally-recognized tribes in the basin.	TBD. Likely GF, LF, FF sources.
<b>AGENCY MANAGEMENT</b>				
Environmental Data Management System	DEQ has received funding to complete business analysis, planning and bonding authority to pay for the first part of implementing an environmental data management system. The system will support air and water quality permitting process improvements, standardization of business processes and increased efficiency and timeliness. DEQ may need to request additional bonding authority and GF to complete the project.	Continue acquisition of data management systems, and related business process improvements following first program component, which is focused on water quality permitting. Expand systems to other water, air and land sub-programs.	Inability to complete project and implement system.	GF, bonding

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	Technology infrastructure	DEQ's Information Resources Management Strategic Plan includes exploring cloud services and State Data Center services to enhance access to information and implement IT solutions to meet agency needs. Examples of potential needs include IT security and cloud-based server services.	Funding to cover one-time and ongoing costs associated with these activities.	Old servers failing; more costly to buy new servers.	GF
	DEQ reorganization	Over the past year, DEQ has undertaken a reorganization effort to improve the alignment and implementation of policies between regions and headquarters.	Funding for new positions: <ul style="list-style-type: none"> <li>• Implementation Administrator to oversee performance to permitting and compliance plans in each of the three DEQ regions. Assures resources are appropriately allocated between regions to meet program performance metrics.</li> <li>• Water Quality Deputy</li> <li>• Additional positions to fully implement reorganization.</li> </ul>	Inability to fully realize reorganization goals of clarifying decisional responsibilities and accountability within the agency. Could jeopardize progress in reducing backlogs in water and air quality programs.	TBD
	Environmental justice	DEQ must meet federal and state requirements pertaining to Title VI of the Civil Rights Act and Environmental Justice and EJ and Title VI work is currently spread across the agency.	Funding for single contact in the agency to coordinate EJ and Title VI activities across the agency; support staff EJ and Title VI efforts; and continue to represent DEQ in state and local meetings.	Lack of a dedicated position to increase DEQ's environmental justice efforts.	TBD
	Lab infrastructure	Create ongoing capital funding for lab equipment.	Capital funding to replace lab equipment (e.g. air quality monitors, water quality probes, analytical instruments) on a replacement schedule.	Not being able to timely replace critical lab equipment.	TBD