

Department of Environmental Quality (DEQ)					
	2017-19 Actual	2019-21 Legislatively Adopted	2019-21 Legislatively Approved *	2021-23 Current Service Level	2021-23 Governor's Budget
General Fund	48,700,887	53,777,160	56,479,828	61,606,527	62,283,485
Lottery Funds	4,732,711	5,300,822	5,557,353	6,045,171	5,824,651
Other Funds	146,250,637	222,204,270	229,495,350	236,699,507	242,425,025
Other Funds (NL)	117,587,846	148,048,330	149,843,330	203,830,055	244,000,055
Federal Funds	22,127,468	29,410,521	30,280,946	31,013,286	28,582,660
Total Funds	339,399,549	458,741,103	471,656,807	539,194,546	583,115,876
Positions	760	779	789	774	806
FTE	734.83	760.40	765.49	768.30	794.24
* Includes Emergency Board and administrative actions through January 2021.					

Program Description

The Department of Environmental Quality (DEQ), with policy direction from a five-member Environmental Quality Commission, administers the state's laws regulating air, water, and land pollution. The Department establishes the standards for clean air, water, and land; determines whether those standards are being met; and then acts to enforce the standards when necessary. The DEQ budget is comprised of five major program units: Air Quality, Water Quality, Land Quality, Agency Management, and Pollution Control Bonds.

CSL Summary and Issues

The 2021-23 current service level (CSL) total funds budget of \$540 million is a 14.6% increase from the 2019-21 legislatively approved budget. This is due in part to reductions taken in 2019-21 and increases in personal services costs, inflation for services and supplies, increases to State Government Service Charges, and \$54 million increase in non-limited funds.

Revenue Shortfalls - The Water Quality Program has a M76 Lottery Fund shortfall (\$1,543,776) and federal funds shortfalls (\$1,348,940) due to a decline in Federal Clean Water Act Grants, with a corresponding reduction of 7 positions (7.00 FTE). Pkg. 125 requests the M76 LF be restored to fund 5 positions (5.00).

Policy Issues

Air Quality Permits - These are issued under two industrial source air quality programs operated by the Department: Air Contaminant Discharge Permit (ACDP) and the Title V Permit, which is for major industrial sources. DEQ received several positions in 2019 to help address the backlog and planned to phase the positions in on July 1, 2020 to coincide with a fee increase that was also approved in 2019. The EQC has approved the fee increase that was provided by the Legislature in 2019, although DEQ is rolling it out at a slower pace due to concerns about

economic hardships during the pandemic. This has delayed hiring to some degree, however, DEQ has been able to make some progress on the permit issues with the positions it was able to fill by reducing the backlog from 20% down to 12%.

Vehicle Inspection Program - The VIP programs anticipated fee increase first discussed during the 2019 session did not pass prior to the 2020 regular session's conclusion. The EQC passed the same fee increase again in November 2020, which would bring vehicle owners in Portland and Medford up to \$25. This fee is again up for ratification by the 2021 legislature. The fee increase proposal would also fund the 8.00 FTE that were reduced in 2019 (individuals were retained through administrative action of creating LD positions for them or putting them in vacant spots) and is expected to raise \$1.3 million Other Funds in 2021-23.

Greenhouse Gas Reduction Program - The March 2020 Emergency Board provided permanent funding for 10 positions to begin work around an Executive Order directing DEQ to create rules for a greenhouse gas cap and reduce program. The proposed rules are still being worked on and are anticipated to come before the EQC in late 2021. The remainder of the \$5 million General Fund provided by the E-Board that was not for position costs was one-time and has been phased out of the 2021-23 budget. DEQ is requesting two additional positions, an Environmental Law Specialist to help ensure compliance, and an Operations and Policy Analyst to work on addressing disparate impacts on communities in Portland. Total cost of the positions is \$420,976 General Fund. Additionally, the Department is requesting \$1.5 million for compliance instrument software development and maintenance, anticipated DOJ consultation, one-time costs to conduct an economic and emissions forecasting study, and one-time costs to finish contracts around public involvement and facilitation services through the rule-making process.

Clean Diesel Program - HB 2007 (2019) authorized DEQ to adopt rule criteria for certification of approved retrofit technologies to diesel engines, specifically for medium and heavy-duty trucks registered in Clackamas, Multnomah and Washington counties. Under HB 2007, the deadline for registration of trucks with engines older than model year 1996 is January 1, 2023. HB 2007 provided DEQ with \$407,718 General Fund and two positions to begin rulemaking and program development. At the time, DEQ identified additional positions that may be required to fully implement the program as the rulemaking process progresses and was directed to return to the Legislature for additional position authority. The program is now requesting two additional Public Service Representatives, one permanent and one Limited Duration, to assist with education, outreach and technical assistance along with \$150,000 in one-time costs to update information systems at DEQ to accommodate the processing of compliance certificates and ensure compatibility with ODOT systems in order to exchange information. Total cost of the requested package is \$580,472 General Fund. The Governor's budget reduced this to one position and \$365,236 General Fund.

Water Quality Permits - DEQ has a package for additional permitting staff, funded through a split of GF and OF, however it was not included in the Governor's Budget. The program has made some progress on the permitting backlog, almost doubling its permitting actions in 2020 versus 2019 (from 23 to 44). However, the work remains complex and the pandemic has obviously caused significant issues around inspections. An area of concern is the federal National Pollutant Discharge Elimination System (NPDES) permits for point source discharges of wastewater or stormwater. These are five-year permits and around 70% have not been renewed on time and therefore are continuing under

outdated conditions. The Governor's budget did approve partially funding a package request for positions in the Water Quality program around clean watershed planning, which is referred to as the Total Maximum Daily Loads (TMDLs). A court order required DEQ to revise 15 TMDLs over the next seven years (in addition to other water quality backlog issues). Rather than 4 positions, the GRB funds 2 positions (1.44 FTE) at \$531,072 General Fund.

Other Significant Issues and Background

Klamath Dam Removals - The dam removals have been agreed to by the Federal Energy Regulatory Commission, California, Oregon, and PacifiCorp and the project is planned for 2023 pending final approval from FERC in 2022. To address FERC concerns about having a financial backstop, PacifiCorp, California, and Oregon have each agreed to commit an additional \$15 million of additional contingency. All parties believe this contingency is extremely unlikely to be needed, but if it is it would be in 2024 and most likely for watershed restoration upon removal of the dams. DEQ, in consultation with DOJ, believes that Clean Water State Revolving Loan Fund dollars could be used to provide the initial funding.

Wildfire Cleanup - DEQ will likely have some costs related to their role in hazardous waste cleanup related to the 2020 wildfires, however that cost won't be known until late calendar year 2021. This is a result of awaiting a determination on the full cost of the cleanup and what percentage FEMA and the federal government is willing to contribute. The likely scenario is that it could be anywhere from 75-90% or possible even the full amount at the President's discretion. DEQ expects their costs to be in the \$15-20 million range, which equates to \$5 million General Fund at the high-end.

Recycling Program - The Department has submitted HB 2065 that provides direction to provide policy and program options to the existing recycling system in Oregon with a report back to the Legislature. The related policy package (131) requests 7 positions and \$1,338,114 Other Funds to conduct research on how to improve the recycling of printed paper and packaging in Oregon.

Agency Management - Package request to support the needs of the Central Services division, contingent on the additional staff that would be added through other policy packages. Includes positions to support human resources, facilities, financial services and diversity, equity and inclusion. These positions would be funded with indirect charged to agency programs. Total of 6 positions and \$1,398,698 Other Funds limitation.

Environmental Data Management System - EDMS project appears to be progressing in good form despite the external difficulties of 2020. The roll-out has been slightly delayed, but that is due to both the agency and vendor working together to address quality assurance feedback, but also ensure the right needs are met including some modifications to accommodate the increased greenhouse gas reduction program needs. DEQ does have a package requesting \$1,604,229 Other Funds limitation in order to spend some of the bond proceeds from the 2019-21 biennium in the current biennium as the project gets completed. Additionally, the Department has been brainstorming ways in which to

fund the system long-term without impacting the General Fund, including a surcharge on invoices for programs that will utilize the system (discussed below under fees).

Fee Changes -

- Asbestos - proposing an approximately 30% fee increase which would take effect in 2022 and would be expected to raise \$600,000 Other Funds. This is projected to stabilize the program for at least two biennia. The exact amounts of the fee increase by license type would be determined through rulemaking by the EQC. Fee payers include asbestos worker (\$45) and supervisor (\$65) certification, training providers (\$320) for accreditation, abatement contractors (\$1,000), project notification (based on size of project) ranging from \$100 to \$3,500. There were 4,785 notifications in 2019. The fees were last raised over ten years ago.
- Hazardous Waste - proposing to increase hazardous waste disposal fees to fund the current staffing levels within the hazardous waste program. The fees have not been increased since 2003. Fee payers include 500 currently registered hazardous waste generators, but there is also cost recovery that helps fund the program. The fee increase is expected to raise around \$1,000,000 Other Funds to adequately fund the program. Contingent on passage of SB 57.
- Environmental Data Management System - SB 58 would provide DEQ with the statutory authority to recover ongoing costs for licensing, hosting and maintenance of the EDMS system. These costs are anticipated to be around \$1.6 million biennially. DEQ's proposal would allow for a surcharge to be included on all invoices that are generated for customers using the EDMS program. The amount of the surcharge would need to be determined annually based on invoices from the prior year, within the range of 2-4%. Other options for funding include General Fund, or increasing the indirect rate of the Administration Program, however raising the indirect rate will put pressure on General Fund and fee revenues in those other programs and require programs that don't utilize EDMS to help cover the costs.
- Credit Card fees - SB 58 would also allow the Department to pass credit card transaction fees, also referred to as convenience fees, on to the customers choosing to make credit card payments for license/permit actions.

Clean Water State Revolving Loan Fund - The Department is requesting \$1,449,000 Other Funds limitation to procure a COTS portfolio management software system to replace the CWSRF's current manual system. The 2019 legislature provided limitation to begin the initial scoping and development requirements of this project. DEQ is currently in Stage Gate 2 with this project. Ongoing revenue to support this system will come from a 0.5% fee charged on outstanding loans and an administrative allowance on capitalized grants from the Environmental Protection Agency. As part of this administrative allowance, DEQ is proposing a transfer from Nonlimited to Other Funds to fund the COTS system.

Orphan Sites - The Department has two requests around the solid waste Orphan Site program. The first is to make permanent two limited duration positions first approved in 2019, along with \$531,768 Other Funds limitation to continue work around facilitation and oversight of cleanup projects. The second is \$4 million Other Funds limitation to spend anticipated bond proceeds to fund cleanup of 20 sites over the next two biennia. The bond amounts are discussed below.

Pollution Control Bonds & Debt Service - The sale of pollution control bonds is used by the Department to finance the Clean Water State Revolving Fund (CWSRF), the Sewer Assessment Deferral Loan program, and the Orphan Site program. The CWSRF program is funded primarily with Other Funds Nonlimited. DEQ is requesting Nonlimited expenditure of \$150,000 for costs of issuance associated with a request for \$10 million in short-term XI-H bonds to be issued to provide the state match component of the federal capitalization grants for the CWSRF. The Department anticipates receiving an additional \$30 million of Nonlimited Other Funds to make CWSRF loans using the Federal Funds provided to Oregon. The debt service on CWSRF bonds would be \$10 million and will be paid from interest earnings received by the CWSRF. Additionally, the Department is requesting Other Funds expenditure limitation of \$300,000 for costs of issuance associated with a request for \$10 million of XI-Q bonds to be issued to provide support for the Orphan Site program. The debt service amount is expected to be around \$396,750 General Fund in 2021-23 based on the assumption of fall 2022 and spring 2023 bond sales. Debt Service costs would increase to \$1.6 million General Fund in subsequent biennia. 2017 was the last time the Department received bonding authority for Orphan Sites.

Environmental Justice - The Governor's budget adds 3 positions and \$2,963,552 General Fund to coordinate interagency efforts related to environmental justice through data collection, policy development and community engagement. Of the funding proposed, \$1 million would be used for development of cumulative impact analysis for environmental justice across all the Natural Resource agencies.

Key Performance Measures

A copy of the Department of Environmental Quality's Annual Performance Progress Report can be found on the LFO website [https://www.oregonlegislature.gov/lfo/APPR/APPR_DEQ_2020-09-30%20\(1\).pdf](https://www.oregonlegislature.gov/lfo/APPR/APPR_DEQ_2020-09-30%20(1).pdf)