

2007-09 Water Quality Budget Implementation Status



State of Oregon
Department of
Environmental
Quality

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Water Quality Standards

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Budget: DEQ requested approximately \$1 million for 5.5 FTE to enhance water quality standards and assessment work. The final budget includes approximately \$500,000 in General Funds to phase-in three positions to begin work on the backlog of outdated standards, starting with turbidity, and help support DEQ's response to third party standards litigation. This level of funding does not support performing use attainability analysis or developing site-specific criteria.

Status: Recruitments for new positions in DEQ's Water Quality Standards Program began in spring 2008, with hiring tentatively scheduled for July 2008.

Priority Work:

- The Oregon Fish and Shellfish Consumption Rate Project is a top priority. The near-term project priorities include finalizing the Human Health Focus Group report; continuing the work of the Fiscal Impact and Implementation Advisory Committee; and planning a public workshop in June 2008. At this workshop DEQ will present the Fiscal Impact and Implementation Advisory Committee findings and discuss relevant work on toxic reduction strategies.
- The review and update of the turbidity standard is currently on hold until new staff are hired.
- DEQ has finalized and published an internal management directive on DEQ's web site as implementation guidance for the temperature standard in permits.
- Litigation: Standards staff are providing support to the Oregon Department of Justice on the temperature standard, Blue Heron permit and Willamette TMDL litigation. Additionally, DEQ is tracking litigation on the federal Environmental Protection Agency's (EPA) lack of action on Oregon's toxics criteria. DEQ has intervened in a lawsuit challenging EPA's approval of Oregon's new compliance schedule rule. EPA, Oregon and most states use compliance schedules to allow cities and companies to make progress toward water

pollution control when pollution limits change or become more stringent.

Stormwater

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Budget: The budget includes five limited duration positions to process industrial stormwater general permit renewals, and phases in 14 new permanent positions.

The budget also includes \$80,000 in general funds to develop an online tool to provide technical assistance to permit applicants for developing erosion control plans, stormwater management plans and best management practices.

Status: DEQ has filled all five limited duration positions, the two permanent regional manager positions, a permanent position in DEQ's Eastern Region, and one of the permanent positions in headquarters. DEQ is currently recruiting for a second position in headquarters. Since fee increases will not be adopted by the Environmental Quality Commission (EQC) until June 2008, DEQ's hiring plan phases in additional permanent positions as funding sources become available.

Priority Work:

- Renewal of expired 1200Z permits is the top priority. To date, DEQ's Northwest Region has completed the majority of its renewals while DEQ's Eastern Region expects to complete permit renewals this summer. DEQ's Western Region anticipates completing permit renewals in fall 2008. Renewals are taking longer than anticipated because permittees need to provide extensive stormwater pollution control plan updates prior to DEQ posting a public notice about a proposed permit renewal.
- Update and renew agreements with local governments that implement stormwater permitting on DEQ's behalf. DEQ has met six times with the 11 local governments that administer stormwater permits. DEQ has also met with three of the agents to complete the agreements. The Oregon Department of Justice is reviewing all the agreements

which are scheduled to be signed by July 1, 2008.

- Implement fee increase. In 2008, DEQ initiated a rulemaking proposal to increase stormwater fees by 82 percent. DEQ accepted public comment on the rulemaking proposal during February 2008. The EQC will consider the proposed rules during the June 2008 meeting.
- Develop and implement statewide inspection plans for water quality permit holders based on the number of new staff in the program. Each region has developed inspection plans for 2008. Plans are contingent on staff completing the high priority 1200-Z renewals and successful recruitment for the remaining positions.
- Work with local communities on the upcoming renewal of the Phase I municipal separate storm sewer system (MS4) permits.
- Secure technical and customer service orientation and training for the stormwater staff. Stormwater program staff attended a training session at the end of October 2000. In January 2008, staff also, attended a stormwater management training class, a training on permit implementation and enforcement, and on construction and industrial stormwater best management practices. DEQ plans to contract with a consultant during 2008 to conduct a stormwater “best management practices” training for staff in DEQ’s Stormwater, 401 Certification and Underground Injection Control (UIC) programs.
- Implement an expedited enforcement program for stormwater permits. DEQ’s Office of Enforcement and Compliance is developing rules to clarify authority for an expedited enforcement program and public comment is currently scheduled for summer 2008. Guidance on how to use the process during construction site inspections will be developed in fall 2008.
- Respond to ongoing, high priority environmental complaints and violations.
- Identify needs for developing the online tool to provide technical assistance to water quality permit holders in early summer of 2008.

Enhance Wastewater Permit Program (Continue Blue Ribbon Committee recommendations)

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Budget: The budget phases in new staff to the wastewater permit program. The positions will assist permit writers with permit-related analyses such as Whole Effluent Toxicity (WET) tests;

compliance and enforcement issues; and ongoing policy and technical issues such as incorporating water quality based effluent limits into permits. The budget also includes federal limitation for a grant to develop an Electronic Discharge Monitoring Report (e-DMR) system that will allow permit holders to submit required reports to DEQ electronically.

Status: The WET coordinator has been hired and began work January 2008. The headquarters policy and technical issues position has been filled internally. The half-time compliance and enforcement position recruitment will occur before the end of 2008.

Priority Work:

- Implementation of the Blue Ribbon Committee Recommendations, including permit backlog, issuance of internal management directives, etc. See recent HPO #1 progress report for details.
- Finalize the mixing zone and temperature internal management directives. (completed)
- Train staff on interpreting WET test results.
- Assist regions with complex mixing zone and other analyses for determining water quality-based effluent permit limits.
- DEQ has been awarded a federal grant to develop an e-DMR system and will begin work on the project after the e-DMR pilot project in Texas is complete so we do not duplicate work and are able use the “lessons learned” from that project. DEQ will work closely with permit holders during development of the e-DMR.

Senate Bill 737

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Background: SB 737 requires DEQ to: consult with all interested parties by June 2009 to develop a list of priority persistent bioaccumulative toxics (“persistent pollutants”) that have a documented effect on human health, wildlife and aquatic life. SB 737 also requires DEQ to report to the Legislature on the list of priority persistent pollutants; point, nonpoint and legacy sources of priority persistent pollutants “from existing data”; and source reduction and control methods that can reduce discharges by June 2010.

Budget: Work will begin in mid-2008 and requires two new positions for two years to be funded by a surcharge fee on the 52 largest municipal wastewater plants in Oregon. SB 737 also requires Oregon’s 52 large municipal wastewater treatment plants to develop plans by 2011 to reduce persistent pollutants through



pollution prevention and toxics reduction. DEQ plans to request additional resources during the 2009 Legislative session to support the ongoing work and associated Oregon Department of Justice costs for this program.

To assess the surcharge outlined in SB 737, DEQ must develop and propose new rules for public comment and approval by the EQC. The proposed surcharge fee rules are scheduled to be presented to the EQC for adoption in June 2008. DEQ has met with representatives from the League of Oregon Cities, the Association of Clean Water Agencies (ACWA) and other special districts to discuss surcharge options.

Status: DEQ plans to begin recruiting for two staff positions in May of 2008, to ensure that the positions can be filled by July 2008 and begin work on the fee surcharge as soon as it is adopted.

Priority Work:

- Adoption of the surcharge fee rules in June 2008.
- In January, 2008, DEQ developed a draft “scope of work” for implementing SB 737 and integrating SB 737 into existing toxics work including the toxics monitoring program, fish consumption rate project, and toxics reduction work coordination with other DEQ divisions. DEQ met with stakeholders to ask for feedback on the draft. The draft scope of work will be refined following the hiring of the new staff positions. New staff will conduct extensive stakeholder outreach and facilitate stakeholder participation in the plan’s formation.
- The draft scope of work includes a plan to assemble a Persistent Pollutant Science Workgroup of 6-8 qualified individuals representing technical expertise in various sectors, to provide advice and comment on the development of the priority persistent pollutant list. DEQ solicited recommendations from interested stakeholders, and anticipates identifying the workgroup participants in May 2008.

Underground Injection Control (UIC) Program

Contact:

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Budget: New fees approved in HB 2118 allow the phase-in of new staff to allow DEQ to deliver the basic elements of a statewide UIC program and retain state primacy of the program. Since these are new fees, DEQ has been tracking actual fee revenues vs. projected fee revenues on a

monthly basis resulting in adjustments based on lower revenues than projected. Revenues by the end of the third quarter (March 2008) were much lower than projected due to the downturn in the economy, a slowdown in housing development, a decision to not assess water quality UIC fees for voluntary cleanup projects that already pay other fees, and follow-up work with local agencies needing to register or apply for a Water Pollution Control Facilities (WPCF) permit.

Status: DEQ’s Northwest Region has hired a regional hydrogeologist for registration application review and a registration and permit coordinator. In the near future Northwest Region will recruit a half-time licensed hydrogeologist to work on WPCF permits. Since revenues have not come in as projected, the agency has put “on hold” the hiring of the remaining staff, which includes an additional part-time licensed hydrogeologist to work on statewide WPCF permit applications, two regional hydrogeologists in DEQ’s Eastern and Western Regions and a half-time enforcement position.

Priority Work:

- Implement new fees and develop budget. Revenue estimates for the program are based on an EPA grant, WPCF permit fees, and projected UIC authorization fees. Fees for rule authorization actions were effective beginning Sept. 15, 2007. The UIC web site has been updated with information on the new fees and forms. DEQ staff continue to meet with ACWA and participated in a meeting with ACWA’s Groundwater Committee to discuss program development and related activities. Ongoing coordination efforts with stakeholders and interest groups will inform applicants of the new fees and UIC program requirements. Staff will continue to identify and notify those UIC authorization holders who are required to pay an annual compliance fee. DEQ began mailing invoices for the annual fees in November 2007.
- Rulemaking for the UIC program is projected to begin in late 2009.

Water Quality Toxics Monitoring Program

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Budget: DEQ received funds to establish a Water Quality Toxics Monitoring Program. Ten new positions will be phased-in during 2007-2009. Work includes ongoing program



development, building a web-based tool for public access to information about permitted wastewater discharges and toxics data, monitoring to identify priority toxics to be reduced, and developing actions to reduce targeted toxics. The purpose of this work is to identify the presence of toxics and to determine which of them, if any, pose a significant risk to human or wildlife health. This program begins work in the Willamette basin. The on-line tool will provide state-wide permit information.

Status: Many of the positions included in the budget for this program have been hired including: the Water Quality Monitoring Program manager, the toxics monitoring coordinator, office support and data entry staff, and the Geographic Interface Systems (GIS) coordinator, who will initially focus on the web-based tool. Positions focusing on monitoring and analysis will be phased-in during 2008.

Priority Work:

- The project plan, which includes determining the scope of initial monitoring efforts and milestones for the rest of the biennium (2007-2009), is in the process of being finalized. A draft project plan will be available for external review in May 2008 and will be finalized in June 2008.
- Monitoring for toxic metals has been added to ambient water quality monitoring program in the Willamette Basin.
- Development of the project plan for the web-based tool.

401 Removal Fill Certification

Contact:

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Budget: The budget includes approval for a fee increase (to be adopted by rule) for the 401 certification program (removal-fill projects), to

fully fund existing staff and increase the program by two positions.

Status: The two new positions, one administrative and one technical, will not be hired during the 2007-2009 biennium.

Priority Work:

- DEQ is working with an advisory committee on a new fee structure for all projects that require a 401 Certification for removal/fill projects. A subset of this group met in December 2007 to discuss a fee increase for all of the 401 Certification projects that are currently assessed fees (about 48 percent of 401 Certification recipients). That group recommended DEQ develop an equitable fee table that is based on the amount of work associated with each proposed project and ensure that the program has adequate staff to do the necessary work. Based on that feedback, DEQ decided that the 401 Certification Program would forgo the proposed fee increase during the 2009-2011 biennium and focus on developing a legislative concept and associated policy package (that includes requests for new positions) for a new fee schedule in the 2009 Legislative Session.
- DEQ is working on high priority projects statewide for dredging, in-stream aggregate removal, wave energy, liquefied natural gas, development and road construction and maintenance.
- DEQ is also participating on an interagency group evaluating in-stream gravel mining operations on a watershed basis.

Alternative Formats

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