

## Department of Environmental Quality

	2019-21 Actual	2021-23 Legislatively Adopted	2021-23 Legislatively Approved *	2023-25 Current Service Level	2023-25 Governor's Budget
General Fund	55,904,792	75,350,378	109,846,109	75,336,257	74,648,826
Lottery Funds	4,927,022	6,038,769	6,263,319	6,454,397	6,448,497
Other Funds	195,653,710	266,829,972	302,195,302	277,466,370	297,337,756
Other Funds (NL)	163,034,529	244,000,055	244,000,055	201,191,800	291,351,800
Federal Funds	22,625,396	29,556,067	30,134,046	31,420,207	31,695,309
<b>Total Funds</b>	<b>442,145,449</b>	<b>621,775,241</b>	<b>692,438,831</b>	<b>591,869,031</b>	<b>701,482,188</b>
Positions	790	817	833	815	844
FTE	766.04	806.99	814.60	809.23	837.93

\* Includes Emergency Board and administrative actions through December 2022.

### Program Description

The mission of the Department of Environmental Quality (DEQ) is to be a leader in restoring, maintaining, and enhancing the quality of Oregon's air, water, and land. They are charged with administering laws to regulate all categories of pollution. The United States Environmental Protection Agency (EPA) has delegated its authority to DEQ to implement federal environmental programs in Oregon. The Department regulates industrial air pollution and works to reduce vehicle pollution through emissions testing and diesel fuel programs. It sets and enforces water quality standards, monitors river basins, measures groundwater quality, and regulates waste discharges from city sewage treatment and industrial facilities. It also regulates hazardous waste disposal, promotes solid waste reduction, regulates underground storage tanks, and enhances environmental cleanup. This work is done under the direction of the five-member Environmental Quality Commission (EQC) composed of citizens appointed by the Governor and confirmed by the Senate. The Department is organized into the following divisions: Air Quality, Water Quality, Land Quality and Agency Management.

The Department is supported with General Fund, Lottery Funds, Other Funds, and Federal Funds. Additionally, DEQ includes both Other Funds Limited and Nonlimited revenue. The limited revenue is derived mostly from licensing and permit fees and to a lesser extent by charges for services. Nonlimited revenue is tied to the Clean Water Revolving Loan Fund, which includes proceeds from bond sales, loan repayments, and Federal Funds treated as Other Funds, as well as interest earnings on the Nonlimited revenue.

### CSL Summary

The 2023-25 current service level (CSL) budget for DEQ totals nearly \$592 million and supports 815 positions (809.23 FTE). This represents a decrease of \$101 million total funds, or 15%, from the Department's 2021-23 legislatively approved budget (LAB). This reduction is the net result of several adjustments. The predominant factors are base budget adjustments related to bonding and debt service, totaling \$33

million, and the phase-out of \$75 million total funds related to one-time investments in DEQ's 2021-23 LAB. The phase-outs include \$40 million General Fund, and \$35 million Other Funds expenditure limitation, largely associated with investments supporting Zero Emission incentives for electric vehicle rebates, and Medium-Heavy Duty Infrastructure grants for charging stations. These reductions were slightly offset by standard inflation of over \$8 million total funds, and a \$0.2 million total phase-in for program costs related to investments made during the 2022 legislative session. Additionally, the agency was granted exceptional inflation for the transfer to the Oregon State Police in the amount of \$0.3 million total funds.

**Revenue Shortfalls:** Two revenue shortfalls were included in the Department's CSL, as outlined below. Additionally, there is the potential for a revenue shortfall in Measure 76 Lottery Funds, which was not included in the Department's CSL, due to timing.

- **Air Quality:** The Title V program reduced over \$3 million Other Funds expenditure limitation and \$16,832 General Fund as well as 11 corresponding positions (11.00 FTE). Inflationary increases in staffing costs have outpaced the annual CPI fee adjustment allowable for Title V permit fees, as per statute. Additionally, the closure of the state's largest Title V source, the Boardman Coal Fired Power Plant, has contributed significantly to the shortfall. A corresponding package is included in the Governor's Budget for DEQ, restoring the positions. However, the package is subject to a Title V fee increase necessary to restore Other Funds program support.
- **Water Quality:** The Water Quality division reduced \$0.3 million Federal Funds expenditure limitation and a Water Quality Analyst position (1.00 FTE) due to a federal revenue shortfall. The base appropriation for the Division's Section 106 Grant, supporting the Water Pollution Control program, has been relatively flat since 2013. As costs increase due to standard inflation, the flat funding model has resulted in this shortfall.
- **Measure 76 Lottery Funds:** The Oregon Constitution, Article 15, section 4b(2) dictates the percentage of lottery proceeds that shall be distributed as grants for fish and wildlife, watershed and habitat protection, and that which may be used for agency operations. This percentage split for grants and operations is required to adjust from 65%/35% to 70%/30% when the proceeds deposited in the Parks and Natural Resources Fund exceed the amount deposited in the fund during the 2009-11 biennium by 50%. Based on recent revenue forecasts, this constitutional threshold is projected to be met in both the 2021-23 and the 2023-25 biennia. This effectively means at least a 5% reduction in available funding for agencies that use M76 funds for operational purposes, like DEQ. The result is that more funding must be made available as grants during the 2021-23 biennium than was originally allocated, and less funding will be available for agency operations in 2023-25, indicating the likelihood of a revenue shortfall at CSL. The state's M76 Lottery Fund grant program is implemented by the Oregon Watershed Enhancement Board. Additional agencies that receive operational M76 Lottery Funds include DEQ, the Department of Fish and Wildlife, the Oregon Department of Agriculture, and the Oregon State Police. DEQ currently has over \$6 million Lottery Funds included for operations in their 2021-23 budget, and approximately 3% more included in the 2023-25 CSL (as shown in the table above). The amount of CSL shortfall is not yet known and will depend on the 2021-23 ending balances.

## Policy Issues

**Climate Protection Program** - In March 2020, the Legislature provided DEQ with permanent staffing to address climate issues in Oregon. Since that time, the EQC has adopted rules to establish the Climate Protection Program (CPP). This new regulatory program, started in 2022, plans to dramatically reduce greenhouse gas emissions in Oregon over the next thirty years. The CPP sets a declining limit, or cap, on greenhouse gas emissions from fossil fuels used throughout Oregon, including diesel, gasoline, natural gas, kerosene, and propane. This includes emissions from fuels used in transportation, residential, commercial, and industrial settings. Additionally, the program directly regulates site-specific greenhouse gas emissions at certain manufacturing facilities. The CPP includes a component to prioritize investments in Oregon's environmental justice communities to help assure they are brought along in the statewide clean energy transition required by the program.

The established rules include financial penalties for companies that can't meet the emission reduction targets. Companies regulated under the program have protested the higher targets, arguing that they will result in even higher prices for gasoline, diesel and natural gas, having ripple effects throughout the economy. They've also raised concerns that there may not be enough available alternatives to fossil fuels, such as biofuels and electric vehicles, to meet the program goals. This program and the dynamics surrounding it will continue to be a topic in policy discussions throughout the 2023 legislative session, as well as the coming biennium.

**Wastewater Permitting Backlogs** - DEQ has long struggled with a substantial backlog of state and federal wastewater permits and as a result the agency is operating under a court order to bring wastewater permits in Oregon up to date. A particular area of concern is the federal National Pollutant Discharge Elimination System (NPDES) permits for discharge of wastewater or stormwater. At one point, the percent of NPDES permits in backlog reached as high as 81%. These are five-year permits, and although progress has been made, about 60% have not been renewed on time and therefore are continuing under outdated conditions. Oregon has had one of the worst records in the nation for out-of-date permits and still has a long way to go to ensure permits meet current standards, protect public health, and prevent environmental threats to Oregon's rivers, streams and lakes. Having permits that are out of date also creates instability and uncertainty for local governments and businesses operating these facilities, as they may be faced with significant capital expenses related to upgrades when the permits are finally renewed.

## Governor's Budget Summary

The 2023-25 Governor's Budget includes over \$701 million total funds, comprised of approximately \$75 million General Fund, \$6 million Lottery Funds, \$297 million Other Funds, \$32 million Federal Funds, \$291 million Other Funds Nonlimited, and 844 positions (837.93 FTE). The total funds budget represents an increase of nearly \$110 million, or 19%, above CSL, and increases position authority by 29 positions (28.70 FTE) above CSL. The Governor's Budget recommends an increase of nearly \$1 million General Fund, holds Lottery Funds essentially flat, and increases Other Funds and Federal Funds expenditure limitation in the amounts of \$20 million and \$0.3 million, respectively. Other Funds Nonlimited is increased by \$90 million over CSL for the purpose of bonding and issuing loans related to the Clean Water State Revolving Fund. Some package highlights, including General Fund investments, reductions and adjustments follow:

- Packages 090, 092, and 093 - Package 090 decreased General Fund by \$3 million, Other Funds expenditure limitation by \$1 million and Federal Funds expenditure limitation by \$0.5 million through various analyst adjustments to meet target reductions to CSL for the Governor’s Budget. Package 092 included a statewide adjustment to Attorney General rates, representing a \$0.2 million reduction across all fund types. Package 093 included a reduction of over \$1 million Other Funds expenditure limitation in the Agency Management Division driven by adjustments to charges and assessments from the Department of Administrative Services.
- Package 110 - This package provides over \$3 million Other Funds expenditure limitation for stabilization of the Title V program, responsible for compliance with the federal Clean Air Act. This increase is dependent on a proposed fee increase.
- Package 115 - This package provides \$0.5 million General Fund and \$1 million Other Funds expenditure limitation, as well as four positions (4.00 FTE) to continue implementation of the Climate Protection Program.
- Package 126 - This package provides \$1 million General Fund and three positions (2.26 FTE) to protect drinking water sources, including additional staff for groundwater protection activities in the Lower Umatilla Basin Groundwater Management Area and developing management strategies to reduce harmful algal blooms.
- Package 129 - This package provides \$0.5 million General Fund, \$11 million Other Funds expenditure limitation, and \$1 million Federal Funds expenditure limitation, as well as two positions (1.88 FTE) to administer new federal programs from the American Rescue Plan and Infrastructure Investment and Jobs Act. These include the Water Quality Grants Support and Administration program, and the Onsite Septic System Financial Assistance Program.
- Package 140 - This package provides \$0.6 million General Fund and two positions (1.50 FTE) to support environmental justice work.
- Packages 132, 133, 135, 141, 142 and 162 - These packages are all supported by the Department’s Other Funds revenue sources. Collectively, they establish 25 positions (25.65 FTE) and provide over \$10 million Other Funds expenditure limitation to:
  - Continue implementation of the Plastic Pollution and Recycling program provided by Senate Bill 582 (2021).
  - Pursue strategic outcomes derived from the report titled 2050 Vision for Materials Management, published in 2012.
  - Establish a permanent position supported by fee revenue to administer the Underground Storage Tank program.
  - Establish 12 permanent positions (12.00 FTE) for the agency’s central services.
  - Establish an Accountant 1 and a Procurement and Contract Specialist 2 to support state and federal grant management.
  - Provide for the procurement of commercial off-the-shelf loan portfolio management software to replace the current manual system of the Clean Water State Revolving Fund.
- Packages 181 and 191 - Package 181 authorizes the issuance of \$70 million of Clean Water State Revolving Fund bonds in Nonlimited Other Funds and \$80,000 Nonlimited Other Funds for bond issuance costs. Package 191 provides Debt Service for bonds issued to meet the state match for federal capitalization grants to maintain or supplement Oregon’s Clean Water State Revolving Fund.

### Other Significant Issues and Background

**Environmental Data Management System** - The Environmental Data Management System (EDMS) project, which started in 2017 with planning funds, intends to consolidate DEQ’s aging, disparate systems within a single off-the-shelf solution designed to standardize and

automate key business processes across the Department's divisions. DEQ reported to the Legislature during the 2022 legislative session on the status and progress of EDMS, which included a timeline for completion. Agency programs within EDS began rollout in May of 2021, with full functionality expected in 2023.

**Clean Water State Revolving Fund System** - DEQ implements the federal Clean Water State Revolving Fund (CWSRF) loan program, which provides below-market rate loans for the planning, design and construction of various water pollution control activities. The CWSRF program staff currently manage about \$80 million in loan agreements annually, and a total portfolio of nearly \$887 million. The program's two loan specialists rely on 36 spreadsheets and two outdated Access databases to manage the financial data and ensure the program meets federal requirements. The agency reports the existing business processes result in redundant data entry, high potential for entry errors, and security concerns. The Department achieved Stage Gate 1 approval from Enterprise Information Services (EIS) in July 2019, and Stage Gate 2 approval in December 2021. DEQ has contracted with a third-party firm to conduct a comprehensive business analysis as a basis for defining software system requirements. The agency is currently coordinating with EIS and the Department of Administrative Services to complete the competitive procurement process and achieve Stage Gate 3 approval. The CWSRF program has funds for the procurement and maintenance of a commercial off-the-self system in their administrative fund, which is supported by loan fees. This project has been ongoing for over four years and, pending their request for expenditure limitation, DEQ plans to complete the final phase of system procurement in the 2023-25 biennium.

#### Key Performance Measures

A copy of the Department of Environmental Quality Annual Performance Progress Report can be found on the LFO website:

[https://www.oregonlegislature.gov/lfo/APPR/APPR\\_DEQ\\_2022-10-03\\_FINAL.pdf](https://www.oregonlegislature.gov/lfo/APPR/APPR_DEQ_2022-10-03_FINAL.pdf)