WATER QUALITY POLICY OPTION PACKAGE 120 NARRATIVE (11-13)

Reformatted from DEQ's Budget Package Proposals, Budget Pages 5 – 91 to 95:
http://www.deq.state.or.us/msd/budget/1113GRB/GBB2011-13.pdf

Title: Improve the Onsite Septic System Program (#120)

(Note: DEQ proposed to add three permanent positions in this package. The Governor's Balanced Budget recommends the positions be authorized as limited duration and this package has been revised to reflect that change.)

Background: More than 30 percent of Oregonians dispose of wastewater from their homes and businesses through the use of septic systems. 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.

DEQ directly manages the onsite septic system program in fourteen counties, referred to as "direct service" counties. Twenty-two counties manage the program under contract with DEQ, referred to as "contract counties." DEQ and the contract counties also ensure that septic tank pumpers have the necessary equipment to safely pump, transport and dispose of the waste from septic systems, known as septage. In addition, DEQ certifies and licenses installers and pumpers, and reviews and approves products such as septic tanks, alternative treatment technologies and alternative drainfield products.

The onsite septic system program is currently unable to provide the services that the public and regulated community expects. For example, DEQ receives many requests to conduct educational presentations to watershed councils and community groups on the importance of regular maintenance of septic systems and other technical assistance topics, but DEQ does not have the capacity to do that work regularly. Feedback received on the presentations DEQ has given and meetings DEQ has attended have been positive and resulted in the prevention of pollution from septic systems in some areas. The program is currently funded 100 percent on fees from households and businesses with septic systems, products, or licensees who pay fees for program oversight, permits, licenses and product approvals. Indirect program costs, including complaint response and enforcement actions also are covered by fees and surcharges assessed on system owners, licensees and manufacturers.

Purpose: Staffing in the onsite septic system program has been incrementally shrinking for many years due to rising costs and a limited ability to raise fees enough to support the program. An external advisory committee was convened during 2009 to provide recommendations regarding funding and other administrative and regulatory concerns of the program. The committee was comprised of system installers, manufacturers, maintenance providers, and county government. The committee acknowledged that raising fees is not a long-term solution to the program's financing and considered alternate sources of funding to improve the program success in all identified areas. Building on the work of previous external advisory groups, the committee offered recommendations in five key areas:

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1. Enforcement
2. Time-of-property-transfer inspections
3. Maintenance of all types of systems
4. Approval process for alternative treatment technologies
5. Additional issues for further consideration

Additional information about the Onsite Advisory Committee can be viewed at http://www.deq.state.or.us/wq/onsite/advisory.htm. This policy package incorporates many of the committee's recommendations as well as other issues that have been identified.

How Achieved/Results: Below is a list of fee and/or staff changes proposed though this policy package. All of these proposed changes will be effective after approved, through the rulemaking process, by the Environmental Quality Commission in 2012.

1. Time of transfer evaluations and septic tank pumping event reporting:
The Coastal Zone Management Act and associated Coastal Zone Act Reauthorization Amendments require, among other things, that coastal states have enforceable policies and mechanisms to control nonpoint source pollution. One of DEQ's requirements is to track inspections of all septic systems at the time of transfer of a property in the coastal zone. Oregon's coastal zone covers the entire Rogue and Umpqua basins, and north of Douglas County from approximately the peak ridgeline of the Coast Range westward to the ocean. DEQ estimates that 10 to 20 percent of all septic systems are failing or improperly performing at any given time, which increases the risk of contamination of waterways and potential public health threats. These inspections will allow DEQ to identify failing or improperly performing septic systems. Additionally, DEQ proposes to require reporting of all septic tank pumping events in the coastal zone in order to verify proper management and disposal of septage. The revenue from reporting fees for time of transfer evaluation reports and septic tank pumping event reports will be used to fund compliance and enforcement and to ensure proper handling, transport and disposal of septage, which is necessary to protect public health and the environment from raw sewage. The inspection results and pumping events reported will be available online in a searchable format.

DEQ proposes to create a time of transfer evaluation reporting fee and a septic tank pumping event reporting fee, both of which will range between $25 and $75 depending on the reporting method (via Internet or paper reports). Submitting reports online will be less expensive than submitting paper reports in person or by mail because DEQ will not be responsible for entering the information into the database. DEQ will use a secure online reporting system where the user pays the report fees and a user fee charged by the third party. This system has been used successfully in other states and will be designed to be user-friendly. This reporting system will allow the initial and ongoing costs to be at the lowest possible level. DEQ anticipates most users will submit reports online, which will in turn lower the administrative staffing needs of the program.

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2. Maintenance of alternative septic systems:
Expand existing maintenance requirements for alternative treatment technologies, commercial sand filters and recirculating gravel filters to all newly permitted (including repairs and alterations) sand filter systems and pressurized distribution systems in Oregon. These systems are typically located on small lots, lots with difficult site conditions, or in close proximity to waterways. These systems require more maintenance than standard septic tank and drainfield systems to continue to operate properly. Maintaining these systems will extend the functionality of the septic system and reduce the impacts of failing systems on water quality and public health. Existing reporting requirements only provide for a hard copy reporting mechanism. DEQ proposes to modify the reporting requirements to include the option to report electronically for a lower fee as described above in # 1.

3. Other program improvements:

a. Compliance incentive fees
DEQ proposes that any permit or license application submitted by an individual or entity to resolve an onsite septic system violation, would pay two times the cost of the existing application fee. This will serve as a deterrent to those who may be thinking of violating or have violated the rules in the past. In addition, this will also recoup the program's costs of obtaining compliance from the violator through the enforcement process.

b. Alternative treatment technology applications treating more than 1,500 gallons per day
Applications for alternative treatment technology septic systems that treat more than 1,500 gallons per day take more time to review, due to a more extensive technical review, than applications for systems that treat 1,500 gallons per day or less. The current fee of $1,600 does not cover the application review costs for the larger systems. The additional staff review time, and in some cases review by an engineer, should be paid by the manufacturer submitting the application. DEQ proposes to create a new fee category for alternative treatment technology applications that treat more than 1,500 gallons per day that will be $3,000. DEQ expects to receive less than five of these applications per year.

c. Alternative treatment technology products review
DEQ is unable to address updates requested by the manufacturers of alternative treatment technologies or review inspection reports for approved models to determine ongoing compliance with the existing requirements. Ensuring that approved systems are performing as they are expected is needed because many other states that have had alternative treatment technologies in use for longer periods of time than Oregon and have experienced problems with some of these systems, which have resulted in environmental and public health issues.

DEQ proposes a $500 annual fee to the manufacturer for each alternative treatment technology model that has been approved for use in Oregon. This fee will allow DEQ to pay for staff time to assess the ongoing performance of alternative treatment technology systems across the state, identify potential problems and seek solutions from the manufacturer before environmental or public health problems arise.

d. Eliminate site confirmation evaluations

Site confirmation evaluations allow qualified private contractors to submit a site evaluation report to DEQ for confirmation. DEQ receives an average of two of these evaluation reports per year and the reports usually do not contain sufficient information for DEQ to make the site confirmation, resulting in additional staff work and a delay for the applicant. DEQ proposes to eliminate the site confirmations and the associated fee because of the small number of applications and because the intended process efficiencies have not been realized.

e. Tracking service contracts

Under existing alternative treatment technology system requirements, service providers and homeowners must enter into a service contract for system maintenance. Service contracts are currently not tracked and many expire without renewal. System maintenance service contracts and the subsequent reporting are critical for septic system operation. DEQ proposes a new fee, similar to the one described in #1 above, to pay for staff time to track the status of service contracts and require any contracts that have been terminated or have expired are reinstated or renewed so that the systems are able to have the maintenance that they need to continue to function properly.

f. Land use clearance approvals

Many local land use planning agencies require DEQ's review and approval for land use activities that may affect a septic system. For example, if a property owner wants to build a structure without any plumbing, the local land use planning agency may want DEQ's approval of the proposed project to avoid damage to the existing septic system or designated replacement area during construction. DEQ currently does not have a fee to cover the costs of reviewing and approving such activities. DEQ proposes to establish a $30 to $50 fee to cover the cost of pulling files, consulting with customers and providing a general approval based on the records in the file and the customer's plans.

With this policy package, DEQ will ensure that septic systems are evaluated at the time of property transfer and that septage from septic tank pumping events is properly handled within the coastal zone. Ongoing operation and maintenance of more complex septic systems will be tracked so that deficiencies are addressed and raw sewage is not discharged into waterways. This package will also ensure that DEQ has the funding to resolve onsite septic system violations through our enforcement program and that the performance of alternative treatment technology products is tracked and the manufacturers of such products are held accountable if their products are not performing as they have purported that they would. Staff will also be able to better respond to customer service requests to research septic system records for land use planning clearance approvals. DEQ will gain efficiencies through the use of electronic reporting and by eliminating site confirmation evaluations. With these efficiencies, staff will be able to focus on the higher priority work of ensuring long-term performance of septic systems and the repair or replacement of failing systems.

If this package is not funded, DEQ will not be able to comply with the Coastal Zone Management Act and Coastal Zone Act Reauthorization Amendments of 1990 and may be subject to legal action. Noncompliance with these laws may result in the loss of $3.2 million in federal funding, which supports approximately 11.0 FTE at DEQ and grants for approximately 25 water quality nonpoint source projects each year. DEQ will not be able to meet public and stakeholders expectations for oversight of the onsite septic program to protect public health and the environment. In addition, DEQ will not be able to assist permit holders in compliance with system requirements, effectively enforce violations, or ensure that septic systems are being operated and maintained in a way that is protective of public health and the environment.

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Staffing Impact – 2011-13: Budget: $ 135,509
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Position Class	Position Authority	Position Number	FTE by Division
NRS 2 Natural Resource Specialist 2	1 LF	2914	0.250 WR
NRS 2 Natural Resource Specialist 2	1 LF	1915	0.250 WR
OS 2 Office Specialist 2	1 LF	2916	0.250 WR
ELS Environmental Law Specialist	0 LF*	2575	0.125 HQ
Total	3		0.875 FTE

Revenue Source: Other Fund
*Beginning January 1, 2013, this package adds 0.50 FTE to an existing position.