

Review
Secretary of State Audit
Department of Environmental Quality Air Quality Permitting Process
(Report 2018-01)

Secretary of State Audit Plan Item

Title of Audit:

Department of Environmental Quality Should Improve the Air Quality Permitting Process to Reduce Its Backlog and Better Safeguard Oregon's Air

Recommendation:

Acknowledge receipt of the report and consider findings and agency responses during the 2019 session.

Overview:

Scope and Purpose of Audit – The Secretary of State's Audits Division identified the primary purpose of the audit was to determine how the Department of Environmental Quality (DEQ) could improve its air quality permitting process to better safeguard Oregon's air quality.

Audit Recommendations – The audit identified several recommendations, including:

- Conduct a process improvement initiative to identify areas in need of improvement and improve tracking of the permit backlog.
- Centralize and improve inspection tracking to ensure they are completed in a timely manner.
- Determine appropriate staffing levels and identify potential funding sources for additional staff.
- Implement the Basic Air Contaminant Discharge Permit for auto body repair facilities.
- Fill vacancies in a timely manner and begin succession planning.
- DEQ management should provide guidance and support for regional permit writing staff.
- Improve pre-application guidance for permit applicants, including improving permitting webpages.
- Provide clear information to the public on the purpose of public comment and participation in the issuance phase of the permitting process.

For a full listing and discussion of the audit findings and recommendations, go to sos.oregon.gov/audits/Documents/2018-01.pdf)

Agency Response – The agency agreed with the audit recommendations, and indicates that work to address most of the recommendations has either already been completed, is in progress, or will be within the next few months (many of the actions are anticipated to be implemented by July 2018). The agency response notes that the agency was aware of many of the identified weaknesses and has had ongoing discussions with the Governor and Legislature regarding these issues. It is also anticipated that there will be program and funding discussions regarding the Air Quality program during the 2018 Session. The agency notes that it believes that some of the performance issues were the result of a 2014 reorganization model; that model has been abandoned and the agency is

returning to the traditional program structure. The agency response does indicate that some of the audit recommendations cannot be fully implemented without additional funding and staff resources. The agency response letter to the Secretary of State is included in the audit and provides further detail on the agency's position regarding the audit findings and detail.

Analysis:

The topic and scope of this audit were timely and in line with the needs of the agency, especially given recent changes in agency leadership. While the audit appropriately outlines issues with the air quality program which could negatively affect air quality in Oregon, it should be noted that air quality in Oregon has improved over the period of time discussed in the audit. The focus and scope of the audit was limited to the Air Quality program, but many of the issues and findings identified by the Secretary of State, as well as the agency responses, are relevant to other DEQ programs, including the Water Quality program. The audit findings are consistent with information from previous legislative discussions, and some of the issues and the work to be done to address the issues were discussed during 2017 legislative budget hearings. The audit provides additional detail that should be useful to agency management and future legislative discussions.

Major components of the audit findings that should be discussed and followed up on tend to fall in three categories: strategic leadership, agency resources (both staffing and funding), and response to changing program requirements and expectations. In the area of strategic leadership, the audit points out that some issues, such as guidance and support from the DEQ headquarters and succession planning, are not occurring as they should be. The agency, in general, agrees that there has been insufficient guidance, support, and succession planning. DEQ does not have a formal succession plan, but takes a number of actions specifically to prepare for employee advancement and succession. These include participating in external management and leadership training, an internal career development program, a formal mentorship program, and encouraging job rotations and developmental assignments. The agency has taken steps to actively begin succession planning more fully for the Air Quality program, as well as for the agency as a whole, as the problem is not isolated to the Air Quality program. In fact, succession planning has been a statewide concern for some time, as discussed in the Secretary of State audit on succession planning and it is anticipated that the Department of Administrative Services will provide leadership to all state agencies on this issue.

In terms of strategic leadership, the agency has recently undergone management changes and is evaluating its governance structure. The agency has discontinued the organizational design that was instituted in 2014 following an analysis by the consultant Mass Ingenuity because it was found to obscure clearly delineated roles and responsibilities which, ultimately, had a negative effect on performance. At this time, the agency has returned to the structure which had been in place prior to 2014 which included distinct air, water, and land quality divisions. The agency intends to conduct a Lean Kaizen process improvement analysis which could further instruct the agency about the most efficient and effective organizational structure and processes. It is possible that this analysis will disclose additional barriers to effective leadership.

Resources, both staffing and funding, have been an ongoing issue for DEQ, as it has with many agencies. The audit provides considerable information on overall agency staffing levels over time; however, it is important to note that there are reasons for staff reductions that have no connection to the Air Quality Permitting program, such as the elimination of the Umatilla Chemical Depot

program and reduced staffing needs in the Vehicle Inspection Program due to changing operational needs. In addition, some of the delays in filling positions during the current biennium are largely due to statewide actions that occurred as a result of an Executive Branch decision to freeze hiring for a period of time; the agency management is not responsible for those types of actions. From 2003-05 to 2017-19, budgeted staffing levels for the Air Quality Permitting program alone have decreased from 68 to 57 FTE and actual filled staffing from 60 to 55 FTE. In terms of filled staffing levels, the low point during this time period was 53 FTE in both 2005-07 and 2007-09. These staffing levels reflect the number of staff positions that could be filled within available revenue.

A fee bill that would have provided additional revenue sufficient to pay for 5 positions (4.00 FTE) was considered but not approved during the 2017 Session. It is anticipated that a fee bill for the Clean Air Oregon program will be considered during the 2018 Session, but that additional revenue, if the bill is approved, would not provide any additional resources for Air Quality permitting staff. The agency notes that some of the recommendations and agency actions will require additional funding beyond what was included in the 2017 legislatively adopted budget to be fully implemented, including restoration of the reallocated positions. It is likely that the agency will request a fee bill that would provide additional resources for the Air Quality Permitting process in the 2019 Session. That request and legislative discussion should consider information from the Lean Kaizen process improvement, a workload analysis that the agency expects to complete by July 2018, and other planning and communication efforts to be undertaken by the agency.

In all of this work, the agency needs to consider the changing complexity of Air Quality program requirements and the increasing demand and need for public participation and complaint response. In fact, these changes have resulted in permit writers spending significantly less time on permit writing and more time on inspection, complaint investigation and response, and public education. When completing the strategic vision and workload analysis, work needs to be done to determine how permit writers should be spending their time (and position descriptions should be updated to reflect that expectation).

The audit correctly identifies a significant backlog in renewals and the fact that there is no incentive for a permittee to care about having their permit renewed because they can continue to operate under the old permit without penalty. (It should be noted that the agency is current on new permits, and the backlog issue is predominantly an issue in the Northwest region.) In addition, there is currently no fee for renewal, but permittees pay an overall annual fee. This fee structure should be evaluated. The agency indicates that they expect to involve permittees in the process to determine how the complaint process should work, as well as how best to ensure an efficient and effective renewal process. Those discussions should include evaluating the fee structure. Fees support about 90% of the total budget for Air Quality permitting and federal law requires that the Title V permit program be 100% fee supported.

Recommendation:

The Legislative Fiscal Office (LFO) recommends acknowledging receipt of the audit report. LFO expects the agency to complete changes outlined in their agency response to the audit and as outlined above and to provide notification to the Joint Legislative Audit Committee (JLAC) when the work is completed. LFO notes that the timeline to complete the work may be somewhat aggressive and anticipates that not all work may be done by July 2018; however, it is expected that the agency will update JLAC and LFO on any outstanding work to be completed prior to the 2019 Session. In

addition, if the agency makes adjustments to their plans on how to respond to the issues raised in the audit as a result of the Lean Kaizen analysis, an update on their plans should be provided to JLAC and LFO.

LFO notes that discussions regarding the need for additional funding, staffing, or other changes or enhancements to the Air Quality program should continue to be part of the regular budget discussions and hearings for the agency. If the agency cannot complete the work outlined in their response to the audit within the current budget authority, specific audit recommendations and agency responses may be taken into consideration during the 2019 session when they can be evaluated in the context of all agency programs and services. Ultimately, decisions on program and service levels for state programs, as well as funding, continue to need to be made within the context of total available statewide resources and priorities.