

Date: Feb. 19, 2021

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Agenda Item 3: Water quality program alignments (Informational)
March 3, 2021, EQC special joint meeting with Board of Forestry

Why this is important DEQ and the Oregon Department of Forestry have engaged in an interagency collaborative effort with the objective of ensuring alignment between the two agencies' water quality responsibilities and processes. This effort seeks to create understanding and interagency processes that support achievement of state and federal water quality requirements and improved water quality outcomes.

This information item will provide an overview of these collaboration efforts and the anticipated outcomes for the agencies' water quality programs. The agencies' respective Department of Justice counsels will participate and provide an overview of advice provided to the agencies regarding authorities and requirements relative to their work in this area.

Prior EQC involvement DEQ and ODF have provided regular updates to the EQC and the Board of Forestry on efforts between the two agencies to align their respective water quality programs and achieve common water quality outcomes. DEQ and ODF have also regularly engaged the EQC and BOF Chair and liaisons to provide updates and seek input in this process.

Background DEQ and ODF have responsibilities and requirements associated with carrying out water quality protection for the state of Oregon. The agencies have a need to specify how agency programs and processes will accomplish their respective requirements while working to continue achieving water quality outcomes in Oregon.

To that end, DEQ and ODF have been collaborating with the objective of clarifying ODF's role and responsibilities as watershed management plans, also known as Total Maximum Daily Loads or TMDLs, are developed and implemented as well as how TMDLs and associated information and analysis

can be used in determining sufficiency of forest practice rules. The agencies are also collaborating on the processes associated with forestry related TMDL development, implementation and reporting.

These efforts have engaged an interagency group of technical specialists to review data, information, and analyses used to conduct sufficiency reviews of Forest Practices Act rules, review load allocations for private forestlands, and develop a framework for using TMDL information to inform future ODF sufficiency reviews of Forest Practices Act rules.

In addition, the agencies have engaged the Department of Justice to provide advice on how the agencies' respective statutes and rules should be interpreted to achieve the stated objectives and outcomes.

An important outcome from this collaboration is the development of an interagency Memorandum of Understanding that will articulate how the agencies will work together to achieve these objectives. The agencies have begun drafting this MOU and continue to have regular discussions to collaboratively develop interagency processes that will be documented in the MOU.

Key issues

The Oregon Department of Justice has provided advice explaining the respective authorities and obligations of the Environmental Quality Commission and the Board of Forestry for the protection of water quality on nonfederal forestland. This advice explains those roles, broadly, as EQC and DEQ assess waters and establish the water quality standards and TMDLs, while the Board and ODF then establish forest practices to achieve those standards.

The existing MOU between ODF and DEQ is over 25 years old and does not reflect the agencies' current program requirements and operations, nor does it reflect current technical and scientific analyses and understandings of the relationship between landscape conditions and water quality.

Based on collaborative discussions to date, ODF and DEQ have begun drafting a new Memorandum of Understanding to address the relationship between the agencies' water quality programs and how the agencies will work together in the future to implement their respective programs. The agencies' seek to delineate processes that build upon the agencies' respective areas of expertise, meet state and federal requirements, are collaborative in nature, and reduce redundancy where possible.

DEQ and ODF will discuss with the Board and Commission a proposed process for continuing development and finalization of the MOU.

EQC involvement DEQ and ODF will continue to regularly engage with the commission and board chairs and liaisons as well as provide updates as part of regular meeting agendas.

Reported prepared by Jennifer Wigal
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