

Biennial Review Request for Comments From DEQ (revised 12-30-14)

“The State Department of Agriculture and the State Board of Agriculture shall consult with the Department of Environmental Quality or the Environmental Quality Commission in the adoption and review of water quality management plans and in the adoption of rules to implement the plans.” ORS 568.930(2)

Survey Checklist for Mid Coast:

DEQ Basin Coordinator: David Waltz

Date: 9/1/15

(If answered “no”, please provide information and/or example language)

I. Area Plan Content

A. Issue identification

1. Does the Area Plan include all water quality limited water bodies, including 303(d) listed and with approved TMDLs?
DEQ COMMENTS: Under 2.5- Prevention and Control Measures: 303(d) List parameters: add Biocriteria to the bulleted list of impairments. Also, “Bacteria” impairments include three fecal indicator bacteria classes: E. coli, fecal Coliform and enterococcus; separate standards for each are applied to freshwater, estuaries/shellfish growing and marine/beaches, respectively.

ODA RESPONSE: ODA and the LAC completed these changes.
2. Does the Area Plan adequately reflect current TMDL status?
DEQ COMMENTS: Yes (currently, only Clear and Collard lakes have TMDLs)
3. Does the Area Plan sufficiently present the TMDL load allocation that it is intended to address?
DEQ COMMENTS: YES (currently, only Clear and Collard lakes have TMDLs)
4. Does the Area Plan adequately include items from applicable Groundwater Management Area Action Plans?
DEQ COMMENTS: N/A; no GWMA have been designated in the Mid Coast Basin
5. Does the Area Plan present the requirements of Coastal Zone Management Act applicable to agriculture?
DEQ COMMENTS: Yes; current revisions added extensive information on CZARA management measures to the Area Plan.
6. Does the Area Plan include sufficient items from the State of Oregon; Pesticide Management Plan for Water Quality Protection?
DEQ COMMENTS: Yes; the combination of labeling, PMP information and CZARA/CNPCP management measures provide sufficient guidance to landowners and growers to properly apply and manage pesticides and minimize their

transport and delivery to waterbodies. It does not, however, provide guidance on management and proper disposal of legacy pesticides, which may be crucial to reducing toxics in the basin.

7. Does the Area Plan sufficiently address the needs in drinking water source areas related to agricultural pollution sources within the geographic area of the plan?
DEQ COMMENTS: No; management strategies in drinking water source protection areas (DWSAs) are addressed in general terms (see 1.5.2 - Drinking Water Source Protection) and in relation to specific pollutants and impairments (Appendix C) and strategies (e.g., 2.5.3 - Soil Erosion Prevention and Control). However, in areas where agriculture's contribution to DWSAs may be significant, the sector should develop specific management strategies in the Siltcoos subbasin (Siltcoos and Woahink Lake) and the Upper/Middle Siletz DWSAs.

ODA RESPONSE: Agricultural water quality regulations currently require that producers prevent and control water pollution to meet Oregon water quality standards, following federal Clean Water Act (CWA) requirements. Ensuring that surface and ground water is suitable for treatment for drinking water is encompassed in the CWA (e.g., 40 CFR Part 403). However, ODA welcomes a summary of information from DEQ about information showing agricultural impacts to drinking water source areas. ODA will work with the LAC, SWCD, and DEQ to review DEQ's drinking water source information and consider adding it to the Plan at the 2017 biennial review.

B. Goals and Objectives:

1. Do the goals and objectives of the Area Plan clearly state that the purpose of the Area Plan is to prevent and control water pollution and to meet water quality standards?

DEQ COMMENTS: Yes, along with regulatory and statutory citations that provides the authority.

2. Does the Area Plan include clear and measurable objectives that are designed to meet water quality standards and TMDL load allocations?

DEQ COMMENTS: Explicit objectives are established only for Focus Areas in the Area Plan to achieve its goals (especially for improving streamside vegetation and riparian conditions). This is a joint ODA-DEQ challenge to address and provide guidance on specific targets. Once DEQ has established load allocations for pollutants in the MidCoast Basin, those implementing the Area Plan will have more explicit information, including targets to set those milestones and timelines.

C. Strategies to Meet Water Quality Goals and Track Progress

1. Are geographic and/or water quality issue priorities listed in the Area Plan consistent with TMDL and GWMA priorities?

DEQ COMMENTS: Yes; no GWMA's have been designated in the Mid Coast Basin.

2. Are geographic scales and implementation actions identified in the Area Plan appropriate to track implementation, progress, and effectiveness?

DEQ COMMENTS: Focus Areas: Yes; elsewhere, No.

ODA RESPONSE: ODA's priority for this biennial review was to work with the LAC and the SWCD to convert this Area Plan to a new template format to be utilized across Oregon. ODA continues to work with the LAC and SWCD to establish measurable objectives, including milestones and timelines, which achieve the goals of the Area Plan as resources allow. ODA will work with the LAC the SWCD to review available resources and then write appropriate measurable objectives with milestones and timelines and include them in the Plan at the 2017 biennial review. This will be an iterative process based on continual review and adaptive management.

3. If applicable, is the Watershed Approach Action Plan addressed?

DEQ COMMENTS: N/A

4. Does the Area Plan provide sound evidence or reasons why implementation actions could lead to pollution reduction? If some of the implementation actions are not consistent with TMDL and other WQ goals, explain why those practices do not contribute toward meeting those WQ goals.

DEQ COMMENTS: Yes, to the extent that application of the general categories of management actions identified in the Area Plan would improve upland and streamside conditions and ultimately reduce pollution. However, additional emphasis should be placed on the research and practical information available (from NRCS among others) showing the criteria (structure) for a fully functioning riparian zone (3-zone or 2-zone).

5. Does the Area Plan include timelines, schedules, and measurable milestones that are consistent with the TMDL WQMP?

DEQ COMMENTS: N/A; TMDLs not yet issued.

6. Is monitoring adequate to determine whether progress is being made to achieve the goals of the plan? If no, are monitoring needs identified and is there a strategy to meet those needs?

DEQ COMMENTS: No; DEQ recognizes the challenges associated with monitoring at spatial and temporal scales sufficient to produce statistically valid results needed to answer this question. Re-evaluation of Lincoln SWCD's trend monitoring program may help, but no specific detailed monitoring plans have been developed by DEQ or agriculture to track improvements in multiple indicator parameters in a given geographic area with significant agricultural activities. Monitoring needs are periodically re-evaluated and revised; approaches are planned in some areas for the 2016-2017 OWEB grant cycle.

ODA RESPONSE: ODA acknowledges DEQ's recognition of the challenges of adequate monitoring and appreciates DEQ's involvement to help evaluate and assist planning and implementation of relevant monitoring in the Mid Coast.

II. Implementation/evaluation

- A. Are voluntary efforts sufficient to implement the Area Plan or are additional incentives needed to increase the rate of participation?

DEQ COMMENTS: Apparently not; several of the same geographic areas and agricultural land ownerships that failed to meet water quality standards or achieve Area Plan objectives in the past have more recently failed to meet those standards or objectives. DEQ has chosen not to submit complaints to ODA in the past in order to allow opportunities for voluntary efforts to be offered and management actions to be completed. DEQ understands that landowners are not taking full advantage of Lincoln SWCD's technical assistance or NRCS programs, including CREP, despite outreach efforts.

ODA RESPONSE: ODA believes that the voluntary efforts continue to be sufficient to implement the Plan. In an effort to better measure the impacts of voluntary efforts, ODA is working with SWCDs around the state to implement Focus Areas. In the Mid Coast Management Area, work has begun within two Focus Areas. The pre-assessments have been initiated, work with landowners to voluntarily complete projects is underway and the first post-assessments have been completed. Lessons learned from this first experience can be applied in the next Focus Areas.

Success of the ODA's and SWCD's voluntary efforts in Focus Areas is founded upon experience and relationships. Lincoln SWCD has recently experienced turnover and new staff will need time to develop key relationships within the agricultural community. In addition, more time is needed for streamside vegetation to mature to provide the anticipated water quality functions.

- B. Are milestones and timelines established for Area Plans achieving the goal of the Program?

DEQ COMMENTS: Explicit milestones and timelines are identified only for Focus Areas in the Area Plan to achieve its goals (especially for improving streamside vegetation and riparian conditions). This is a joint ODA-DEQ challenge to address and provide guidance on specific targets to agricultural stakeholders. Once DEQ has established load allocations for certain pollutants in the Mid Coast Basin, those implementing the Area Plan will have more explicit information, including targets to establish milestones and timelines.

ODA RESPONSE: ODA's priority for this biennial review was to work with the LAC and the SWCD to convert this Area Plan to a new template format to be utilized across Oregon. ODA continues to work with the LAC and SWCD to establish measurable objectives, including milestones and timelines, which achieve the goals of the Area Plan

as resources allow. ODA will work with the LAC the SWCD to review available resources and then write appropriate measurable objectives with milestones and timelines and include them in the Plan at the 2017 biennial review. This will be an iterative process based on continual review and adaptive management.

- C. Is reasonable progress being made towards accomplishing milestones and timelines in the Area Plan?

DEQ COMMENTS: This question is difficult to address, because (a) basin-wide milestones and timelines are not identified in the Area Plan, (b) no systematic assessment of implementation has been conducted or tracked and (c) many changes in land condition and water quality are challenging to accurately measure at short timescales. However, riparian improvements could be measured using simple metrics, but are not being consistently documented (e.g., to OWEB).

ODA RESPONSE: As noted above, ODA's priority for this biennial review was to work with the LAC to convert the Plan to a new format. ODA will continue to work with the LAC and SWCD to write and improve measurable objectives. It is important to note that this will be an iterative process based on continual review and adaptive management. ODA and the SWCDs evaluate focus area success on a quarterly and biennial basis. Focus Areas are a relatively new concept and we hope to learn from both successes and failures so that we can make adjustments to foster greater success.

III. Area Rules

- A. Are the prohibited conditions likely to be effective in making reasonable progress towards meeting state water quality goals?

DEQ COMMENTS: If clearly defined and fully implemented, prohibited conditions are likely to be effective in allowing significant progress towards meeting state water quality goals and standards.

- B. Are additional prohibited conditions or other mandatory control measures needed?

DEQ COMMENTS: Yes; the Area Rules should explicitly address agricultural and rural roads not addressed under other regulatory programs, including: placement and hydrologic connection to streams, minimum erosion and sediment control measures, bridge approaches, low water crossings, and proper decommissioning of poorly sited roads.

ODA RESPONSE: The Area Rules cover pollution from farm roads through the waste rule, OAR 603-095-2240(4). ODA would consider any information from DEQ showing that farm roads are a priority source of sediment. ODA may work with the SWCDs and the LAC to discuss farm roads in the description of this prevention and control measure at the next biennial review.