

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)

**Yamhill Agricultural Water Quality Management Area Plan
November 19, 2015**

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 COMMENT: N/A

ODA COMMENT: Sections 2.4.1 and 2.4.2 contain the TMDL and 303(d) list. Ryan Beyer (RB) has also added a statement referencing DEQ's submittal of the 2012 Integrated Report. See pg. 30 and Appendix A.

2. Does the Area Plan adequately reflect current TMDL status?

DEQ COMMENT: N/A

ODA COMMENT: The summary table with the Yamhill TMDL list can be found on pg. 31. The complete list can be found in Appendix A on pg. 69. RB has also added a DEQ provided update on the TMDL status.

3. Does the Area Plan sufficiently present the TMDL load allocation that it is intended to address?

DEQ COMMENT: N/A

ODA COMMENT: See the full TMDL list on Appendix A on pg. 69. In addition to Appendix A, Section 2.4.2 pages 29-32 provides a summary of the TMDLs and a reference to strategies in support of reductions for phosphorous and mercury. FA and SIA focus more specific on TMDL and 303(d) listing targets.

4. Does the Area Plan adequately include items from applicable Groundwater Management Area Action Plans?

DEQ COMMENT: N/A

ODA COMMENT: Not applicable, although the Area Plan does discuss Groundwater Management Areas in Section 1.5.3 on pg. 17.

5. Does the Area Plan present the requirements of Coastal Zone Management Act applicable to agriculture?

DEQ COMMENT: N/A

6. Does the Area Plan include sufficient items from the State of Oregon; Pesticide Management Plan for Water Quality Protection?

DEQ COMMENT: N/A

ODA COMMENT: The Area Plan addresses the Pesticide Management Plan in Section 1.5.4, 2.5.5, and DEQ updates to the PSP program was provided by DEQ in section 4.4.

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: Section 1.5.5 provides an overview of the Drinking Water Program, but no specifics pertaining to how the Ag Plan supports surface water and groundwater drinking water sources. Recommend including how the plan, through prevention control measures, supports the beneficial use of drinking water. Refer to DEQ comments 1.5.5 and 3.1.

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. However, additional long-term and overall objectives could include: Long-term Objectives across the Management Area

- All streamside areas along agricultural lands support site-capable vegetation
- Water from agricultural lands meets water quality standards and load allocations
- Program effectiveness is measured and documented across the Management Area and across each priority area
- Voluntary participation is maximized

Overall Objectives

- Minimize erosion and sediment from agricultural and rural lands
- Manage irrigation and tail water runoff to waters of the state
- Control pollution as close to the source as possible
- Limit livestock access to streams, wetlands, and riparian areas and promote management of animal waste to minimize runoff to waters of the state

ODA RESPONSE: Section 3.1 explains that the goal of the Area Plan is the “prevent and control water pollution from agricultural activities and soil erosion and to achieve applicable water quality standards”. The same section of the Area Plan also includes related guiding principles that provide useful concepts for preventing pollution in the context of a successful farm operation. These serve as overall objectives. For more long term objectives, see our comments on Measurable Objectives, below.

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

DEQ COMMENTS: Objectives are broad for the Area Plan as a whole. Objectives for the SIA are not included. Refer to DEQ Section 3 comments. DEQ acknowledges the challenges of setting timelines for objectives. DEQ supports adaptive management, and expects milestones and timelines to be reviewed and adjusted over time.

ODA RESPONSE: ODA's priority for this biennial review was to work with the LAC and the SWCD to update 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. See Section 3.3 for measurable objectives. The Yamhill SWCD has completed a pre-assessment of the Focus Area and will implement projects to increase streamside

vegetation. This will be an iterative process based on continual review and adaptive management.

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: GWMA is not applicable to this plan. Refer to DEQ Section 2 comments for beneficial uses and meeting TMDL load allocations.

ODA RESPONSE: The current Focus Area is located in the Middle North Fork of the North Yamhill River. The Yamhill SWCD prioritized their Focus Area to this location to address sediment and temperature. See description in Section 3.3.1 on pg. 49.

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

DEQ COMMENTS: Yes for inside the focus area. Outside the focus area the extent of implementation is hard to determine. Including information on the SIA would further support geographic scale and implementation actions. Refer to DEQ Section 3 and 4 comments.

ODA RESPONSE: Chapter 4 of the Area Plan reports on the accomplishments achieved throughout the Management Area. In addition, as Focus Areas are rotated through the Management Area over time the entire Management Area will be prioritized for focused work. ODA will work with the YSWCD and the LAC to report on the area's SIA at the next biennial review when data are available.

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: BMPs are consistent with TMDL and other WQ goals. Reference to sources are not directly linked to the measures, however, non-compliance descriptions do define a source. Refer to DEQ comments in Section 2. For beneficial uses and meeting TMDL load allocations.

ODA RESPONSE: ODA believes the rules and the suggested management practices, when successfully implemented, are adequate to meet water quality goals. For example, improving riparian conditions decreases exposure to solar radiation and increases bank stability and filtration functions to reduce sedimentation and bacteria entering into waters of the state.

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

DEQ COMMENTS: There is no TMDL WQMP for Yamhill, only for the Middle-Willamette Chehalem area. No timelines and milestones for Chehalem identified, which is identified as AG Plan Area Wide. DEQ supports ODA's efforts to identify priority watersheds (FA) and SIA to focus implementation in those areas as well as test out a proactive compliance program. Additionally, this effort supports future options for meeting water quality goals throughout the Area Plan. DEQ hopes to support ODA in developing a strategy to assess the entire management area.

ODA RESPONSE: None.

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: Overall current monitoring efforts are summarized in Sections 3.4.4, 4.2 and Appendix B. Chapter 3 and section 4.1 pertaining to the FA is designed to assess plan progress and

effectiveness. Emphasis on the AG Plan overall effectiveness is lacking. DEQ recommends ODA and LAC consider the questions specified in the MOA at a minimum:

- ODA will determine the percentage of lands achieving compliance with the area rules.
- ODA will determine whether the target percentages of lands meeting desired land conditions, as outlined in the goals and objectives in the area plan, are being met.

The agencies will review and evaluate existing information with the objective of determining:

- Whether additional data are needed to conduct an adequate evaluation.
- Whether goals and objectives need to be revised to facilitate better measuring of progress.
- Whether existing strategies have been effective in achieving the goals and objectives of the area plan.
- Whether the rate of progress is adequate to achieve the goals of the area plan. Achievement of area plan goals will occur consistent with legislative direction to achieve water quality standards and within the time frames established under TMDLs.
- Whether existing prohibited conditions, and compliance activities to implement those conditions, are sufficient to implement the area plan.
- Whether additional prohibited conditions or other mandatory control measures are needed. This evaluation will occur in accordance with OAR 603-090-0000 through 603-090-0120.

ODA COMMENT: Current monitoring efforts are summarized in Sections 4.2 and Appendix B. ODA welcomes DEQ input on how to improve water quality monitoring given available resources.

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: ODA is working to provide detailed information for FA and SIA. Once ODA begins to collect and share information for FA and SIA, DEQ would be able to evaluate and respond to this question. Once timelines are set to achieve 100% rule compliance, and methodology for obtaining that information becomes clear, ODA and LAC can determine if area plans are being implemented at a reasonable rate. DEQ encourages ODA and LMAs to identify and track data needed.

ODA COMMENT: ODA and LMAs across the state use FAs to measure progress resulting from focused outreach and voluntary producer participation. ODA uses the SIA process to measure compliance across Oregon.

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

DEQ COMMENTS: ODA is working to provide detailed information for FA and SIA. Once ODA begins to collect and share information for FA and SIA, DEQ will evaluate and respond to this question more definitively. Once timelines are set to achieve 100% rule compliance, and methodology for obtaining that information becomes clear, ODA and LAC can determine if

area plans are being implemented at a reasonable rate. DEQ encourages ODA and LMAs to identify and track data needed.

ODA RESPONSE: ODA continues to work with the LAC and the YSWCD 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 YSWCD to review available resources and continue to develop appropriate measurable objectives with milestones and timelines for the 2017 biennial review. This will be an iterative process based on continual review and adaptive management. Currently, section 3.3.1 contains a measurable objective to reducing bare ground.

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

DEQ COMMENTS: It seems like great progress is being made and that the updated plan, along with FA and SIA, reflect this. ODA is working to provide detailed information for FA and SIA. Once ODA begins to collect and share information for FA and SIA, DEQ would be able to evaluate and respond to this question.

ODA RESPONSE: N/A

III. Area Rules

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

DEQ COMMENTS: No comment.

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

DEQ COMMENTS: No comment.