

Biennial Review Request for Comments From DEQ

"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: **Klamath Headwaters** (Lite Review)

DEQ Basin Coordinator: Steve Kirk

Date: April 4, 2013

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: No. The Plan needs to be updated for current (2010) 303d list at <http://www.deq.state.or.us/wq/assessment/assessment.htm>

ODA Response: This was a light review and focused on LAC discussion of implementation and monitoring. ODA and the LAC did not make changes to the plan in this biennial review. ODA will work with the LAC to update 303(d) list at the next full biennial review in 2015.

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

DEQ Comment: No. The Plan refers to the TMDL for Upper Klamath Lake Drainage as the "Headwaters TMDL" (see page 14, 1st paragraph). Please use the correct citation for the Upper Klamath Lake Drainage TMDL and WQMP (ODEQ 2002). The section "How the Klamath Headwaters Agricultural Water Quality Management Plan addresses the Nutrient Related Standard (page 24) doesn't mention the TMDL allocations for nonpoint sources in the Upper Klamath Drainage TMDL (ODEQ 2002).

ODA Response: ODA will correctly reference the Upper Klamath Lake Drainage TMDL and WQMP (ODEQ 2002) at the next full biennial review. ODA will work with the LAC to insert discussion of TMDL allocations for nonpoint sources in the Upper Klamath Drainage.

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

DEQ Comment: No. The Plan does not present the phosphorus TMDL allocations for non-point sources. See **Section 2.8 Allocations - 40 CFR 130.2(G) and (H)**(ODEQ 2002) for non-point sources allocations.

ODA Response: ODA will work with the LAC to present the correct TMDL non-point source allocations in the 2015 biennial review.

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

DEQ Comment: N/A

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: No.

ODA Response: ODA will work with the LAC to insert this information into the Plan at the next full biennial review in 2015.

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 Comment: No.

ODA Response: ODA will work with the LAC to incorporate information from DEQ regarding drinking water source areas and potential contaminants from agriculture in the Management Area.

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 and water quality standards?

DEQ Comment: Yes, page 15. However, the Plan does not clearly state that the Plan is designed to achieving TMDL allocations. How can the Plan be considered a TMDL implementation plan without this critical goal? Please see the attached comment letter dated March 16, 2011. The Plan is unclear how compliance with water quality standards and TMDL allocations would be determined.

ODA Response: OAR 603-090-0030 (1) states that "An area plan shall include ... a statement that the goal of the area plan is to prevent and control water pollution from agricultural activities and soil erosion and to achieve applicable water quality standards." As noted on page 23 of the Plan, ODA is a Designated

Management Agency (DMA), and as such is responsible for ensuring this Plan is adequate to achieve agriculture's nonpoint source TMDL allocations. ODA will work with the LAC to clarify how the Plan is intended to meet agriculture's TMDL responsibilities. ODA and the LAC will also discuss and insert measureable objectives and timelines to the Plan in 2015.

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

DEQ Comment: No.

ODA Response: ODA will work with the LAC to develop these and insert them into the Plan in 2015. Proposed formatting for this was presented at the May 2013 meeting. Information regarding current monitoring, Focus Areas, and Strategic Implementation Areas will be added.

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 Comment: No. The Plan does not mention how fertilizer applications will be controlled to limit impacts to water quality.

ODA Response: Language will be proposed for inclusion in the 2015 Plan that clearly discusses fertilizer application.

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

DEQ Comment: No. The implementation actions are not tied to a geographic scale, so tracking progress and effectiveness would be problematic. Priority areas are not identified in the Plan.

ODA Response: Information regarding Focus Areas and Strategic Implementation Areas will be added to the Plan in 2015.

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

DEQ Comment: N/A. The Klamath Basin Watershed Approach Action Plan is under development.

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 Comment: In general, the implementation BMPs follow recognized practices with the exception of fertilizer management as mentioned above.

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

DEQ Comment: No. The Plan should include timelines, schedules and measurable milestones as required by OAR-340-042 (http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_340/340_042.html).

ODA Response: ODA will work with the LAC to add measureable objectives and timelines to the Plan in 2015.

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 Comment: It appears that monitoring for implementation of the Plan is adequate but monitoring for effectiveness of the Plan to achieve water quality standards and achieve TMDL allocations is lacking.

ODA Response: Information on current monitoring efforts will be included in the 2015 Plan. In addition, Focus Areas will serve as a monitoring tool to track implementation/effectiveness of the Plan.

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 Comment: Given the controversy over water quality issues in the Upper Klamath Basin, voluntary participation may not be adequate assurance that the Plan will be successfully implemented.

ODA Response: The Klamath SWCD is planning to begin a Focus Area in the Klamath Headwaters in 2015. Significant funding for AgWQ restoration could become available soon. OWEB is currently concentrating SIP funds in the Klamath Headwaters. These efforts are likely to improve the extent and success of voluntary efforts to improve AgWQ.

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

DEQ Comment: Milestones and timelines need to be established and added to the Plan.

ODA Response: ODA will work with the LAC to add milestones and timelines at the 2015 Biennial Review.

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

DEQ Comment: It is not readily apparent that measurable milestones are being accomplished on a pre-determined schedule, based on information provided in the Plan.

ODA Response: ODA will work with the LAC to add measureable objectives and timelines to the Plan in 2015. Language will also be proposed to describe Focus Areas and Strategic Implementation Areas.

III. Area Rules

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

DEQ Comment: Perhaps. The effectiveness of the prohibited conditions should be evaluated based on the Plan's effectiveness monitoring.

ODA Response: Information regarding current assessment and monitoring information will be added to the Plan in 2015.

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

DEQ Comment: Again, this should be evaluated from results of implementation and effectiveness monitoring.

ODA Response: Information regarding current assessment and monitoring information will be added to the Plan in 2015.