

Water Quality Areas of Shared Interest and Oversight

Informational Item: Joint Board of Forestry – Environmental Quality Commission Meeting

Nov. 2, 2017

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Presentation purpose

- Review roles and responsibilities for water quality regulation and management on state and private forestlands
- Review cooperative mechanisms established by the Oregon Legislature
- Summarize on-going forestland water quality work

Commission's role and responsibilities

- Implement the federal Clean Water Act and state law (ORS 468B):
 - Approval of rules including water quality standards
 - Water Quality permitting system (NPDES, etc)
 - Nonpoint Source Program (Sect. 319 CWA)
 - Water Quality Limited waterbodies
 - TMDLs

Board's role and responsibilities

- Supervise all matters of forest policy and management under the jurisdiction of the state ...(ORS 526.016)
- Under the Forest Practices Act (FPA), continuous growing and harvesting, vest in the Board exclusive authority to adopt and enforce rules governing forest practices (ORS 527.630)

Board's water quality regulatory authority

- Board required to adopt best management practices to maintain water quality and meet Commission standards (ORS 527.765)

Relationship between Commission & Board

- Oregon statutes create a unique cooperative relationship between the Board and the EQC that ensures water quality protection on forestland
 - The EQC has primary responsibility for complying with the federal Clean Water Act (CWA), and
 - The BOF has exclusive responsibility for regulating forest practices
 - Providing each body with a formal process to request that the other consider its concerns

Board's approach to water quality protection

- Use of non-regulatory tools.
- Efforts under the Oregon Plan for Salmon and Watersheds.
- Existing land-use laws to maintain forestland (Statewide Planning Goal 4)
- Supports an effective, science-based, and adaptive FPA.

Forestry exemption

- Unless required to do so by the provisions of the [CWA], neither the [Commission nor the DEQ] shall promulgate or enforce any effluent limitation upon nonpoint source discharges of pollutants resulting from forest operations on forestlands in this state ...ORS 468B.110(2)

Potential for regulatory conflict

- Disagreement over the application of the authorities could result in regulatory conflict
 - The Commission might believe that the Board has not appropriately applied its BMP authority (ORS 527.765); conversely,
 - The Board might take issue with the Commission's water quality standards as they affect forest operations (ORS 468B.105)

Cooperative mechanisms

- Special procedures govern Board review of existing BMPs
- Dialogue expected between the bodies for water quality standards by EQC
- Formal liaison roles established in 2013
- Legislative incentive for Board and Commission agreement

Cooperative mechanisms

- Neither the Board nor Commission has exercised its formal authority to raise disagreements
- The petition option in ORS 527.765 has not been exercised by the EQC or the BOF since these laws were passed in 1991

Forestland water quality work

- Sediment delivery to streams from landslide prone areas and forest roads (CZARA & TMDLs)
- Thermal loads following harvest on private forestlands (New Riparian Rule and TMDLs)
- Off target migration of pesticides (Monitoring and Pesticide General Permit)
- ODF Compliance Audit
- ODF Private Forests Monitoring Strategy

Questions?