

ODF-DEQ MOU OUTLINE

Jan. 29, 2021

DRAFT

Preamble:

[Insert brief statement noting DEQ and ODF have responsibilities and requirements associated to carry out water quality protection for state of Oregon and as such, have a need to articulate that for how agency responsibilities will support one another and water quality in Oregon which is intended to be accomplished by this MOU.]

I. Introduction

I.1 Purpose & Vision of this MOU

Vision for this Memorandum of Understanding (MOU):

Achieve and maintain high water quality on all non-federal, non-tribal forestlands.

Purpose:

The purposes of this MOU are to:

- Delineate how the Oregon Department of Forestry (ODF) and the Oregon Department of Environmental Quality (DEQ) will coordinate to achieve and maintain high water quality on non-federal, non-tribal forestlands, including:
 - Processes to assess the adequacy of Forest Practices Act (FPA) rules and non-regulatory measures in achieving water quality standards and (if completed) TMDL load allocations; and,
 - Processes for incorporating forestry-related considerations in TMDL development, implementation, and reporting.
- Build a strong relationship between DEQ and ODF on water quality-related issues.
- Encourage the use of non-regulatory and incentive-based solutions to achieve and maintain water quality standards and TMDL load allocations.
- Ensure that the agencies fulfill their respective obligations in an effective and efficient manner.

I.2 Scope of MOU

[Scope will cover items in this MOU outline. Scope is not expected to cover the following elements beyond their relevance to the WQS/TMDL development processes and relevant aspects of ODF WQ program:

1. Land use conversions (separate MOU, see ODF *et al.*, 2006)
2. Actions by DEQ/ODF solely focused on climate change, wildfire, or other natural disturbances.
3. Aerial pesticide applications (for more information, see Senate Bill 1602)
4. Pesticide Analytical and Response Center (Existing MOA, see PARC, 2006)
5. Explicit discussion of resolving Coastal Zone Management Act Reauthorization Amendments (CZARA) lawsuit.]

I.3 Background

DEQ water quality authorities

[Overview of relevant water quality authorities, programs, and responsibilities.]

ODF water quality authorities

[Overview of relevant water quality authorities, programs, and responsibilities.]

Nexus of DEQ and ODF water quality-related authorities

[Overview of federal and state authorities and mandates and where those intersect within DEQ and ODF, including where statutes/regs address intersect as well as process opportunities to improve program intersections. Section will also address the role of the Board of Forestry and Environmental Quality Commission.]

History of DEQ-ODF collaboration

[Summarize history of agencies' water quality-related work, acknowledge change and evolution of water quality regulatory programs, forestry operations/industry, scientific understanding of water quality and watershed processes, and forest lands' role in those processes. Highlights need of MOU to build on these changes and understandings.]

II. Interagency Coordination

II.1 Principles of Interagency Collaboration

[This section describes several guiding principles that are essential to our effective collaboration.]

II.2 Adoption and revision of Water Quality Standards; [Flow Chart (Adoption and revision of WQS (including ODF participation)]

[Overview of process to prioritize, review and adopt water quality standards, including specific points for ODF engagement in this process.]

II.3 Implementation (of non-grant part) of Section 319 program

[Overview of section 319 nonpoint source program as baseline program to “make reasonable progress” to address nonpoint sources of pollution through existing authorities, collaborations, and funding.]

II.4 TMDL Development and Implementation

[Overview of process to prioritize, develop and implement TMDLs and WQMPs to achieve WQS, including specific points for ODF engagement in this process. Overview of ODF steps/processes related to TMDL implementation.]

II.5 Nonregulatory and incentive-based programs

[Discussion of importance and approach to use of non-regulatory programs in meeting water quality goals.]

II.6 Implementation Evaluation and Reporting

[will include description of implementation evaluation and reporting both through ODF and DEQ processes including DEQ’s process for evaluation of other DMAs TMDL implementation and reporting]

II.7 FPA Sufficiency Reviews

[Overview of rule sufficiency review process and steps to consider for rule revision within statute. Include how DEQ is involved.]

II.8 Desired Future Condition

[Discuss how this principle applies and connection to DEQ principles for streamside vegetation.]

II.9 Basin Specific Rules

[Section on the approach defined in the basin rule and consideration of how to accomplish requirements in early development of TMDL.]

III. Mechanics of MOU

III.1 Dispute Resolution

[State principles for addressing disputes and mechanisms that will be used should disagreements occur that cannot be resolved by staff rank in a timely manner. Will address elevation processes, up to and including EQC/BOF level resolution specified in statute/regs.]

III.2 Additional support for this MOU

[Cite attachment or appendix with any additional procedural details we have ironed out or that will be ironed out later and included in this MOU by reference]

III.3 MOU Amendment and Review processes

The agencies will review this MOU every 5 years, or sooner if agreed upon by the agencies. No amendments may be made to this agreement without the express written agreement of both parties. Such agreement will be signed by the Directors of each agency.

Peter Daugherty, Director
Oregon Department of Forestry

Date:

Richard Whitman, Director
Oregon Department of Environmental Quality

Date:

References

Appendix:

Flowcharts of (1) WQS prioritization and adoption; and (2) TMDL prioritization, development and implementation, including points of public and stakeholder involvement and engagement, ODF Role/Engagement for each.