State of Oregon Department of Environmental Quality

Notice of Proposed Rulemaking

May 3, 2023

Amendments to Water Quality Standards: Updating Aquatic Life Use Designations

This package contains the following documents:

- Notice of Rulemaking
- Draft Rules – Edits Highlighted
- Draft Rules – Edits Included (final clean version)

Note for Readers:

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Introduction

DEQ invites public input on proposed permanent rule amendments to Chapter 340, Division 41 of the Oregon Administrative Rules.

Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

Overview

DEQ proposes that the Environmental Quality Commission adopt amendments to the state's water quality standards. The amendments update the aquatic life use designations associated with Oregon's temperature standard and designate aquatic life uses associated with Oregon's dissolved oxygen standard for the first time in rule. The updates and the new designations are based on the best available scientific data and information.

Two additional proposed amendments clarify terms "Cold-Water Aquatic Life" and "Cool Water Aquatic Life" in the Division 41 definitions and revise the pH criteria for the Crooked River and Trout Creek subbasins of the Deschutes basin.

Short summary of proposed rule changes

The proposed amendments update the fish and aquatic life use designations in OAR 340-041-0101 to OAR 340-041-0340. The proposed rules replace the existing fish and spawning use maps and amend the fish use tables for the temperature subcategories and add new maps and tables for the dissolved oxygen use subcategories.

DEQ proposes two additional rule amendments as part of this rulemaking package. The first amendment revises the terms "Cool Water Aquatic Life" and "Cold-Water Aquatic Life" in OAR-340-041-0002 (9) and OAR-340-041-0002 (12) to "Cool Water Species" and "Cold Water Species," respectively. The second amendment adjusts the upper limit of the pH criteria from 8.5 to 9.0 for the Crooked River and Trout Creek subbasins of the Deschutes basin in OAR-340-041-0135 to be consistent with consistent with the criteria in adjacent basins with similar geology, hydrology, and aquatic life.

Background of reasons for doing this rulemaking

Water Quality Standards are comprised of designated beneficial uses, water quality criteria established to protect the designated uses, and an antidegradation policy (40 CFR 131.6). The beneficial use designations for fish and aquatic life set the protection goals for a waterbody and determine which temperature and dissolved oxygen criteria apply to the waterbody.

DEQ last designated aquatic life uses for Oregon waters in 2003. Since then, almost 20 years of additional data and information have become available. Much of the data replaces the professional judgment available at the time with direct field observations of species and habitat distribution. This rulemaking to update Oregon's aquatic life use designations is needed to ensure that the use designations are accurate and appropriate based on the best available scientific information. The rulemaking will also ensure that the fish use maps are consistent with the current Oregon Geographic Information Council spatial data standards. This rulemaking incorporates the best available information to ensure the use designations associated with the temperature are accurate. In addition, DEQ will designate aquatic life uses associated with the dissolved oxygen (DO) standard in rule for the first time. The proposed rule amendments will improve DEQ's ability to apply the appropriate temperature and dissolved oxygen criteria to protect fish and aquatic life uses.

In 2003, as part of the temperature standard rulemaking, DEQ mapped the fish use subcategories associated with the different criteria contained in the temperature standard. This specificity was required as the result of litigation because the court found that it was not clear what times of the year and to which waterbodies or waterbody segments the various temperature criteria applied. The 2003 mapping relied primarily on fish species and life stage distribution and timing information from the Oregon Department of Fish and Wildlife. ODFW's database relied on the professional opinions of biologists where direct observation or survey data were not available. The uses adopted in 2003 are contained in tables and maps in the water quality standards rules (OAR-340-041-0101 to OAR-340-041-0340).

With few exceptions DEQ has not updated the fish use maps and tables for temperature since 2003. The proposed updates incorporate the following changes since that time:

1. ODFW has completed significant updates to their statewide fish habitat distribution database.
2. Restoration projects and dam removals have restored access to some previously blocked streams.
3. In 2010, the U.S. Fish and Wildlife Service designated critical habitats for Bull Trout, which are not accurately reflected in the state's current designations.
4. In 2009, the State of Oregon adopted the National Hydrography Dataset as the state geospatial standard for hydrographic data. DEQ's current fish use maps were made using an older hydrographic mapping system and are incompatible with the newer spatial data standards for Oregon.

The dissolved oxygen (DO) standard was adopted in 1996. At that time, Oregon did not designate aquatic life use subcategories in rule. However, Oregon has applied the standards consistently for many years as described in memoranda to the U.S. Environmental Protection Agency in 1998 and 2004. These memos identify how DEQ determines where and when the various DO criteria are applied to protect aquatic life and have been DEQ's standard practice since 1998. There has been a longstanding need to clarify in rules where and when the salmonid spawning criteria for DO apply. DEQ is proposing to adopt waterbody-specific aquatic life use subcategory designations in rule consistent with existing implementation procedures, where appropriate, based on the greater amount of data now available. There remain data gaps for identifying where resident trout species spawn. DEQ will establish an inventory to track and

document additional "active spawning areas used by resident trout." Per the DO spawning criterion, the criteria apply to these areas. DEQ will consider adding data on spawning habitat to the inventory on review and consultation with ODFW that it meets necessary quality assurance protocols.

The terms "Cold Water Aquatic Life" and "Cool Water Aquatic Life" appear in both the water quality standards definitions rule (OAR 340-041-0002), adopted in 2003, and the DO standard (OAR 340-041-0016 and OAR 340-041-0016 Table 21), adopted in 1996. The terms in the definitions rule were amended during the temperature standard revision rulemaking in 2003. However, these terms are not actually used in the temperature standard. They were intended to simply identify which fish species are typically classified as cold versus cool water species for information purposes. The DO standard, which was adopted in 1996, does use these terms to describe two of the aquatic life use subcategories defined in OAR 340-041-0016, Table 21. The definitions in OAR-240-041-0002 and are not consistent with the definitions for the same terms used in OAR 340-041-0016, Table 21. DEQ has applied the DO standard using the definitions in the dissolved oxygen standard rule (OAR 340-041-0016, Table 21) since 1996. The revised terms in the proposed rule amendment, "Cold Water Species" and "Cool Water Species," are more precise given the definitions in OAR-240-041-0002 and eliminate the inconsistency with the terms and definitions as used in Table 21.

The EQC adopted the current pH criteria for the Deschutes basin in 1996. The pH criteria vary by region, with an upper limit of 8.5 pH units in coastal and Cascade streams, and an upper limit of 9.0 pH units in south central and eastern Oregon streams. The range up to 9.0 pH units protects aquatic life, including salmon and trout. While many of the Deschutes basin streams originate in the Cascade Mountains, the streamflows in the Crooked River and Trout Creek subbasins originate in the more arid ecoregion east of the Deschutes River. These subbasins are similar in geological and ecological character to other eastern Oregon streams, including the adjacent John Day basin. The Crooked River and Trout Creek watersheds are primarily categorized in the John Day/Clarno Uplands Level IV ecoregion along with most of the adjacent John Day basin. Changing the upper pH criteria for the Crooked River and Trout Creek subbasins to 9.0 pH units will ensure the pH standard is consistent with subbasins of similar geological, hydrological and ecological character in south central and eastern Oregon. In addition, the proposed pH standard protects aquatic life from impacts of pH and provides more appropriate targets for implementation of water quality programs.

How this rulemaking addresses the reasons for doing the rulemaking

This rulemaking applies the best available and most up to date scientific information about the distribution of sensitive species of aquatic life and habitats across the state of Oregon to update the aquatic life use designations used to apply criteria for temperature and dissolved oxygen. The proposed rule amendments ensure that the aquatic life uses designated for waterbodies are correct, and the appropriate criteria will be applied to protect fish and aquatic life. The additional rule amendments will clarify terms used in the water quality standards rules and ensure the pH criteria for the Crooked River and Trout Creek subbasins are accurate and consistent with streams with similar geological, hydrological, and ecological characteristics.

Key policy and technical issues

1. A key technical issue is determining and acquiring the data and information needed to support an updated aquatic life use designation that is subject to less stringent criteria than the currently designated use. When a state changes the use designation to one where a less stringent water quality criterion will apply, federal regulations require a Use Attainability Analysis. The analysis must demonstrate that the current use subcategory is not attainable and must identify the highest attainable use. DEQ developed this analysis in consultation with EPA. The scope and information required for these analysis increases the complexity of the rulemaking process and documentation.

2. Another key technical issue is that data on the specific locations for resident trout spawning habitat are incomplete. This information is needed to designate spawning habitat for purposes of applying the dissolved oxygen spawning criteria. There is now ample information that identifies the waterbodies where resident trout occur, but not all of these waters are spawning habitat. Wherever the best available data identifies the stream is an active spawning area used by resident trout, DEQ is designating those waters for spawning. In addition, DEQ is designating spawning for Lahontan cutthroat trout throughout their range because they are listed as threatened or endangered under the Endangered Species Act, their range in Oregon is very limited, and the spawning areas within their range can change from year to year based on fluctuating stream flows in the arid part of the state where they occur.

3. A key policy issue is how DEQ will address the incomplete information about resident trout spawning habitat in this rulemaking and how DEQ will incorporate new information in the future, as additional data documenting resident trout spawning locations become available. It is DEQ's goal to ensure that Oregon's use designations are accurate and appropriate based on the best scientific data currently available in order to protect aquatic life uses. DEQ is proposing to designate in this rulemaking resident trout habitat where it has reasonable assurance that trout spawning is highly likely to occur. DEQ will also develop procedures to identify and evaluate additional data on resident trout spawning habitat, in coordination with ODFW.

Affected parties

This rulemaking has a statewide scope and potentially affects Oregon waters statewide. The interests of a cross-section of communities are likely to be affected by the rule. The revisions to aquatic life use designations contained within this rulemaking have been developed based on the most up-to-date scientific and technical information. As a result, some of the revisions will result in application of less stringent water quality standards and some of the revisions will result in application of more stringent water quality standards to waterbodies. Therefore, some amendments are expected to affect some NPDES permit holders with temperature or dissolved oxygen limits that will be subject to more stringent criteria, including some POTWs and dam operators who have 401 water quality certifications. In other cases, those requirements may become less stringent. In addition, some nonpoint source activities may be impacted. The rules could indirectly benefit commercial and sport fishing businesses by ensuring that Oregon's salmonid populations are protected into the future. Other parties that could have interests in the health of fish and aquatic life include the National Marine Fisheries Service, U.S. Fish and Wildlife Service, Tribes with lands or usual and accustomed fishing areas in Oregon,

environmental or conservation Non-Governmental Organizations, recreational users and tourists, and researchers. For additional information, see the Fiscal and Economic Impact Statement below.

Outreach efforts and public and stakeholder involvement

DEQ formed an external technical workgroup of experts in fish habitat distribution with representatives from state, federal, and tribal natural resource and wildlife management agencies. The technical workgroup advised DEQ on available data sources and revising the methodology to use the data sources to identify where and when aquatic life uses occur. DEQ also formed a rulemaking stakeholder advisory committee and met with the committee five times to discuss and obtain early input on the proposed aquatic life use updates, the methods, and the fiscal impacts of the proposed use updates. The committee provided information that DEQ used to draft the fiscal impact statement. More information on the stakeholder advisory committee can be found under the sections of the advisory committee and the fiscal impact statement below.

DEQ provided an advanced notice of the rulemaking to all Oregon tribes. They were welcomed and encouraged to participate in the technical workgroup and stakeholder advisory process as well as invited to consult directly with DEQ on a government-to-government basis about this rulemaking, according to their preference. Tribal government representatives participated in both the technical workgroup and the rulemaking advisory committee.

Brief summary of fiscal impact

The proposed rule amendments ensure that Oregon's aquatic life use designations are accurate and reflect the current and potential habitats for aquatic life. In some cases, these rule changes will result in more stringent criteria applying in some locations and less stringent criteria applying in other locations. Where uses are changing such that a more stringent criterion applies, the changes may provide additional protection from current pollutant sources, but primarily will ensure the appropriate protections are in place to preserve water quality. DEQ estimates that waters receiving more stringent criteria may have a positive economic impact in some regions. If fish populations are protected in the future and possibly increase, there may be positive fiscal impacts for commercial and recreational fishing related businesses, tribal fisheries, and related jobs and incomes due to increased abundance of fish and aquatic life. In contrast, there may be negative fiscal impacts on other state agencies, businesses or the public if the proposed rules result in more stringent permit limits leading to increased industrial wastewater treatment costs, municipal wastewater treatment costs or sewage treatment fees.

Procedural Summary

More information

Information about this rulemaking may be found on this web page: Fish and Aquatic Life Use Updates

Public Hearings

DEQ plans to hold one public hearing.

The hearing is by webinar and teleconference only.

Anyone can attend a hearing by webinar or teleconference.

Date: June 6, 2023
Start time: 4 p.m.

Call and web connection information:
Join online via Zoom

Join by phone:
Call-in number: 877-853-5257
Meeting ID: 816 7856 1323

Instructions on how to join webinar: Webinar instructions

How to comment on this rulemaking proposal

DEQ seeks public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. DEQ will accept comments by email, postal mail or verbally at the public hearing.

- **Email:** Send comments by email to AquaticLife.2022@DEQ.oregon.gov
- **Postal mail:** Oregon DEQ, Attn: James McConaghie/Water Quality Standards and Assessment, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232-4100
- **At public hearing:** 4 p.m., Tuesday, June 6, 2023

Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by 5 p.m., Friday, June 23, 2023

Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

Sign up for rulemaking notices

Get email or text updates about this rulemaking by either:

- Signing up through this link: GovDelivery;

Signing up on the rulemaking web site: Fish and Aquatic Life Use Updates

What will happen next?

DEQ will include a written response to comments in the staff report that DEQ will submit to the Environmental Quality Commission. DEQ may modify the proposed rule amendments based on the comments.

The proposed water quality standards rule amendments only become effective for Clean Water Act purposes if the Environmental Quality Commission adopts them and EPA approves them. Depending on the extensiveness of public comments DEQ intends to submit the proposed rule amendments to the EQC at their November 2023 commission meeting.

Statement of need

Proposed Rule or Topic	Discussion
Aquatic Life Use Designation Updates	
What need would the proposed rule address?	Oregon's current aquatic life use designations, which are part of the state's water quality standards, were last revised in 2003. The rule amendments incorporate the last 20 years of new fish and habitat data and information to ensure that these use designations are accurate, protective, and based on the best available scientific information.
How would the proposed rule address the need?	The rules incorporate and apply the most up to date scientific data and information available on the aquatic life uses associated with the temperature and dissolved oxygen standards. The revisions to Oregon's water quality standards rules specify where and when these designations apply based on this information.
How will DEQ know the rule addressed the need?	DEQ will know the rule addressed the need because the new designations incorporate the best available data and information and will protect aquatic life uses.
pH criteria revision for Crooked River and Trout Creek subbasins	
What need would the proposed rule address?	The proposed rule amendments adjust the pH criteria for the Crooked River and Trout Creek subbasins of the Deschutes River basin to be consistent with the criteria for other basins with similar geologic and hydrologic conditions.
How would the proposed rule address the need?	The proposed rule amendments will revise the pH criteria in the Crooked River and Trout Creek subbasins so that it is appropriate for the basin and will protect the aquatic life uses of the subbasins.

Proposed Rule or Topic	Discussion
How will DEQ know the rule addressed the need?	DEQ will know the rule addressed the need because the new criterion is protective of aquatic life uses and results in appropriate thresholds for water quality assessment, NPDS permit limits, TMDL targets and other relevant regulatory actions.
Aquatic Life Use definitions	
What need would the proposed rule address?	The proposed rule amendments clarify inconsistencies in the use and definition of the terms “Cold Water Aquatic Life” and “Cool Water Aquatic Life” between the general definitions and the dissolved oxygen standard in Oregon’s administrative rules.
How would the proposed rule address the need?	This rule will resolve the inconsistency in the terms and definitions in Oregon’s administrative rules.
How will DEQ know the rule addressed the need?	DEQ will eliminate the inconsistency and potential for confusion between the terms and definitions in OAR-340-041-0002 and the definitions in the dissolved oxygen rule OAR-340-041-0016 Table 21.

Rules affected, authorities, supporting documents

Lead division

Water Quality

Program or activity

Water Quality Standards

Chapter 340 action

Amend				
340-041-0002	340-041-0101	340-041-0121	340-041-0130	340-041-0135
340-041-0140	340-041-0151	340-041-0160	340-041-0170	340-041-0180
340-041-0190	340-041-0201	340-041-0220	340-041-0230	340-041-0250
340-041-0260	340-041-0271	340-041-0286	340-041-0300	340-041-0310
340-041-0320	340-041-0330	340-041-0340		

Statutory Authority - ORS				
468.020	468B.010	468B.015	468B.030	468B.035
468B.048				

Statutes Implemented - ORS				
ORS 468B.030	ORS 468B.035	468B.048		

Documents relied on for rulemaking

Document title	Document location
Aquatic Life Use Updates Technical Support Document	https://www.oregon.gov/deq/rulemaking/Pages/aquaticlife2022.aspx
Use Attainability Analysis for Aquatic Life Use Designations	https://www.oregon.gov/deq/rulemaking/Pages/aquaticlife2022.aspx
Issue Paper: Aquatic Life Use Definitions Clarification	https://www.oregon.gov/deq/rulemaking/Pages/aquaticlife2022.aspx
Issue Paper: Proposed pH Criteria Revisions for the Crooked River and Trout Creek Subbasins, Deschutes Basin, Oregon	https://www.oregon.gov/deq/rulemaking/Pages/aquaticlife2022.aspx

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and Economic Impact

The proposed rules will amend the aquatic life use subcategory designations associated with Oregon's temperature standard and clarify in rule where and when the use subcategories associated with the dissolved oxygen (DO) standard apply. Previously, the subcategories for the DO standard were not designated to specific waterbodies in rule and were not explicitly mapped. New data are being used to update the aquatic life use subcategories associated with the existing temperature standard, and to designate waterbodies for the use subcategories associated with the DO standard in rule for the first time.

Updates to the aquatic life use subcategories associated with the temperature standard will result in more stringent criteria in some waters and less stringent criteria in others. However, the designated aquatic life use subcategories for most waters will not change. The aquatic life use updates are based on the habitats that are currently present in waterbodies or are attainable in the future; for example, where biologists have determined there is potential for re-introduction of Bull Trout. In most cases, where the use is being changed to a use associated with a more stringent criterion it is because the use or the habitat is currently present. However, applying the appropriate temperature and dissolved oxygen criteria will ensure that the uses and habitat conditions continue to be protected.

Waters with more stringent criteria include those for which the state has improved information and data about aquatic life uses. In addition, since DEQ initially mapped aquatic life use subcategories in 2003, restoration projects and dam removals have opened certain previously blocked streams to fish passage. DEQ estimates that waters with more stringent criteria may have a positive economic impact in some regions. For example, application of more stringent water quality standards resulting from the proposed rulemaking may have positive effects by ensuring that Oregon's salmonid and resident trout populations are protected into the future. Where DEQ's assessment of appropriate criteria for a location results in more stringent criteria, the fish will be better protected, and there may be positive fiscal impacts for commercial and recreational fishing related businesses, jobs, and incomes. In contrast, there may be negative fiscal impacts on businesses or the public as a result of the proposed rules if the resultant permit limits are more stringent, which could cause increased wastewater treatment costs or sewage treatment fees.

As part of this rulemaking, DEQ is also proposing to revise the pH criteria for the Crooked River subbasin and the Trout Creek subbasin in the Deschutes basin. The revised criteria will be consistent with the pH criteria for nearby basins with similar geological, hydrological and ecological conditions and better reflect the range of natural conditions of these subbasins. DEQ does not expect these pH criteria revisions to adversely affect aquatic life because the proposed criteria protect the species found in these subbasins. In addition, DEQ does not expect any fiscal impacts from the revisions of the pH criteria.

As part of this rulemaking, DEQ is also proposing to revise two terms defined in OAR 340-041-0002. The terms *cold water aquatic life* and *cool water aquatic life* are being revised to *cold water species* and *cool water species*. The revisions clarify the terms and eliminate an inconsistency with the terms defined in Table 21 of the DO standard (OAR340-041-0016).

DEQ does not expect the revision of these terms to have any fiscal impacts because the revision of these terms will not affect how DEQ applies the DO criteria.

Statement of Cost of Compliance

DEQ is unable to quantify the cost of compliance due to the lack of data. Where the designated use for a waterbody changes to one with a less stringent temperature or DO criterion, the change could provide a fiscal benefit to regulated point sources. Where the use changes mean the applicable criteria are more stringent, the proposed rules could lead to a fiscal impact for permitted sources. The proposed use updates will include both scenarios. DEQ estimates that the proposed rule amendments (for both temperature and DO) may directly affect up to a total of 44 NPDES-permitted facilities throughout the state of Oregon, and estimates that fewer than 15 facilities will be subject to more stringent permit limits.

In general, more accurate mapping, better data and more accurate criteria are expected to reduce regulatory complexity and uncertainty, thus reducing costs of both compliance and implementation of the standards.

State agencies

Direct Impacts

DEQ

DEQ is required to renew NPDES discharge permits every five years. With regard to the proposed use updates for temperature, DEQ has identified 39 major and minor NPDES facilities with individual permits that may be impacted by a change in criteria. Nine of the 39 facilities may be subject to more stringent permit limits for temperature. The specific facilities and waterbodies can be seen in the appendix entitled "Potential NPDES Impacts."

Staff identified five NPDES facilities that will discharge to waters with more stringent DO criteria. There is currently insufficient information to determine whether or not water quality in these waters are achieving the new DO criteria. Only if the waterbodies are found to be impaired for the more stringent criteria will additional staff time likely be needed to renew these permits due to the need for the analysis and development of effluent limits. However, the amount of time needed will not be known until site specific data is collected and analysis is performed. The impact to a specific facility is best evaluated on a site-specific basis.

If additional waters are listed as impaired for temperature or DO due to the use changes, DEQ will need to develop total maximum daily loads for these waterbodies, which would require added resource expenditures.

ODFW

The Oregon Department of Fish and Wildlife (ODFW) operates 34 fish hatcheries to supplement the production of native fish populations and maintain commercial, sport and Tribal fisheries. Thirty hatcheries operate under the NPDES general permit and four hatcheries operate under individual permits. ODFW has identified that ten of these facilities are located on waters that could be subject to more stringent water quality criteria for temperature under the proposed rules. Whether there are any specific costs for compliance cannot be determined at the time of this rulemaking. ODFW estimates that costs associated

with achieving compliance if one or more of these facilities is required to install direct effluent treatment could have capital costs in the range of $28 thousand to $1.67 million per million gallons per day (MGD) per degree Celsius treated. In addition, ongoing operations and maintenance could cost in the range of $28,000 to $280,000 per MGD per °C treated per year dependent on the degree of temperature impairment. Alternatively, ODFW estimates that management through water quality trading programs could cost $455,000 to $4.55 million annually based on similar trading programs in Oregon. DEQ has not verified these costs. Alternatives for addressing thermal loading from any given facility would need to be evaluated on a site-specific basis.

Indirect Impacts

DEQ does not expect indirect impacts from the proposed rules.

Local governments

Direct Impacts

The proposed rules may result in either more or less stringent permit limits for temperature and biological oxygen demand for 31 publicly owned treatment works (POTWs). To the extent that the proposed rules will result in more stringent permit limits, local governments that operate POTWs may need to improve treatment processes to meet these limits. This could involve any number of treatment or implementation options including water quality trading, constructed wetlands, hyporheic zone injection, storage, cooling ponds, spray ponds, cooling towers, mechanical chillers and other technologies. More stringent limits associated with DO criteria might require adjustments in current practices for these facilities, such as increased need for flocculent or other chemicals needed to address biological oxygen demand. Because the need of each facility is unique, there is insufficient information to estimate how many facilities will receive more stringent permit limits or how much it will cost to meet those limits. Similarly, there is not sufficient information to determine whether the proposed changes will result in less stringent permit limits for certain facilities or whether the revised limits would result in cost savings. The circumstances leading to adoption of less stringent permit limits for a facility with an established limit are rare. The impact to a specific facility is best evaluated on a site-specific basis.

Indirect Impacts

DEQ does not expect indirect impacts to local governments. However, in some locations revised temperature and DO-related designations resulting in application of more stringent criteria due to the proposed rules may contribute to: (i) increased protection of investments by non-profits, governmental entities, and other parties in improving water quality and protecting native fish across the state, and (ii) ensure continued productivity of recreational and commercial fisheries that are dependent on protective (and accurately mapped) water quality standards.

There are multiple tribal nations throughout Oregon with fishing rights in Oregon waters. Accurate water quality standards that protect fisheries support the role of fishing in tribal cultures and a secure economic future for the tribal nations.

Public

Direct Impacts

DEQ expects an overall positive direct fiscal impact to the public as a result of the proposed rules. Commercial and recreational fishing is a major economic driver in the Oregon economy, especially in smaller rural communities. Small Oregon coastal communities that heavily rely on commercial salmon fishing for their income, may experience a positive fiscal impact due to the proposed rules, if salmon populations increase.

According to the Deschutes River Alliance, the statewide economic contribution of recreational anglers to Oregon's economy as of 2018 was $1.5 billion dollars, supporting 13,120 jobs. It was estimated that 569,600 Oregon recreational anglers spent $871.8 million in 2018.[1] The proposed rules may have a positive fiscal impact on income from recreational anglers if salmon populations increase. Providing access to recreational salmon fishing may also have a positive fiscal impact on the public who can use the salmon as a food source.

In contrast, some negative fiscal impacts on the public are possible as a result of the proposed rules if more stringent permit limits for POTWs cause increased fees for the public. However, insufficient data are available to estimate exact costs.

Indirect Impacts

The Rulemaking Advisory Committee identified potential for indirect positive fiscal impacts on the public from the proposed rules: 1) improve the ecological health of Oregon's watersheds resulting in lower treatment costs for municipal water providers, 2) improve recreational opportunities resulting from cleaner and more productive waters, or 3) increase transfer of salmon-derived nutrients in the ecosystem from migration resulting in healthier forests and freshwater communities. However, DEQ expects that the rules will have minimal effect on fish populations in the near term. Rather, the new uses better reflect and will protect the habitats that currently exist.

There may be indirect negative fiscal impacts on the public if wastewater utilities increase fees to their customers to comply with more stringent criteria. For example, if any of the NPDES permit holders cannot meet more stringent temperature or DO requirements in their permits with current facilities, operations, and approved water quality trading plans, additional facilities (capital improvements) and increased operational costs (power, operations, and maintenance, and/or expanded water quality trading plans) may be required. To calculate specific cost impacts, updated facilities plans and alternatives analyses would need to be considered. Therefore, specific costs cannot be documented at the time of this rulemaking and are best addressed on a site-specific basis.

The Oregon Association of Clean Water Agencies suggested that wastewater utilities and industries may be required to take additional action to meet compliance if more stringent criteria apply. Wastewater utilities have two sources of revenue to fund capital and operational costs associated with NPDES permit compliance activities: systems development charges (SDCs), collected from developers of new construction; and user fees,

[1] https://www.psc.org/wpfd_file/economic-impacts-of-pacific-salmon-fisheries/

collected from customers connected to the wastewater collection and treatment systems. SDCs and user fee rates are set by communities to fund the costs of capital and operations. Except in rare instances, utilities do not have other revenue sources to fund expanded facilities and operations necessary to comply with new regulations. Furthermore, they must collect sufficient utility revenues to fund direct costs and debt service requirements. Generally, wastewater utilities also do not have the ability to reduce or shift resources from other activities in order to offset cost impacts to customers because their ongoing activities, operations, and capital projects are necessary for NPDES permit compliance. Therefore, the costs must be passed on to the customers and developers in the form of rate increases in user fees and SDCs. In this way, increased user fees can potentially impact communities and the public.

Large businesses - businesses with more than 50 employees

Direct Impacts

It is difficult to state how much the proposed rules may affect large businesses because the changes proposed by this rule are relatively modest. According to Portland General Electric, there will be minimal to no fiscal impact to the utility's hydroelectric facilities on the Deschutes, Clackamas and Willamette rivers. Three of the NPDES permitted facilities that may be impacted are large businesses including: Diamond Fruit -Parkdale, Diamond Fruit - Odell, and Duckwall-Pooley Fruit - Odell. These businesses could be impacted if the use changes lead to more stringent permit limits.

Indirect Impacts

DEQ does not expect indirect impacts to large businesses from the proposed rules.

Small businesses – businesses with 50 or fewer employees

Direct Impacts

It is not possible to quantify direct fiscal impacts on small businesses from the proposed rules, whether positive or negative, based on available information. The proposed rules at the very least should maintain the current economic benefits to the commercial and recreational fishing businesses that support many communities along the Oregon coast as well as far inland.

According to the Pacific Coast Federation of Fishermen's Associations, commercial salmon fishing generates thousands of jobs in smaller coastal Pacific Northwest communities. Oregon Department of Fish and Wildlife estimates that Oregon's coastal commercial salmon fisheries generated an annual average of 396,728 landed pounds of salmon from 2010-2017 in its multiple coastal ports, an average ex vessel (i.e., wholesale) value of approximately $2,073,481 at landing. Furthermore, this was estimated to have created more than $5,000,000 in net economic impacts to Oregon's coastal communities through the chain of commerce.[2] Based on available data, it is unknown at this time what the quantified fiscal effect to large fisheries-dependent businesses may be. DEQ expects that the effect of the rule

[2] https://www.dfw.state.or.us/MRP/docs/Backgrounder_Comm_Fishing.pdf

amendments may be small but positive because the proposed rules support healthy fish habitats.

Hoover Treated Wood, a small business, is a NPDES permitted facility that may be impacted if use changes lead to more stringent permit limits.

Indirect Impacts

DEQ does not expect the proposed rules will have an indirect impact on small businesses. It is not possible to quantify indirect fiscal impacts, whether positive or negative, based on available information.

ORS 183.336 - Cost of Compliance for Small Businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

One small business, Hoover Treated Wood, on the South Umpqua River.

b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

No additional activities are required to comply with the proposed rules.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

No additional resources are required for compliance with the proposed rules.

d. Describe how DEQ involved small businesses in developing this proposed rule.

DEQ solicited feedback and information from the Rulemaking Advisory Committee regarding potential fiscal impacts to small businesses. The Rulemaking Advisory Committee included a member from Oregon Business and Industry to represent small and large businesses. The Rulemaking Advisory Committee also included representatives from commercial and recreational fishing interests.

Documents relied on for fiscal and economic impact

Document title	Document location
Comments submitted by ACWA	DEQ Offices, available upon request
Comments and statement submitted by PCFFA;	DEQ Offices, available upon request
Comments submitted by NWPPA International Paper	DEQ Offices, available upon request

Comments submitted by Deschutes River Alliance	DEQ Offices, available upon request
Comments submitted by Trout Unlimited	DEQ Offices, available upon request
Comments submitted by ODFW	DEQ Offices, available upon request

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.333 requires, DEQ asked for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 to reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and documented its recommendations in the Fiscal Impact Statement.

DEQ received comments on the draft fiscal impact statement from the following members of the advisory committee: Trout Unlimited, Oregon Association of Clean Water Agencies, International Paper, Deschutes River Alliance, Pacific Coast Federation of Fishermen's Associations, Portland General Electric, and Portland Water Bureau. DEQ evaluated all the advisory committee comments. Some of the advisory committee comments were not incorporated in the final FIS because they were either beyond the scope of fiscal impacts or because DEQ's conclusions differed. These specific comments are addressed in the following paragraphs.

Trout Unlimited suggested the proposed rule for pH will reduce salmonid protection in the Crooked River and Trout Creek which they believe will have an indirect negative fiscal and economic impact on entities endeavoring to protect and restore populations of listed species in those areas. Trout Unlimited did not provide an estimate of this fiscal impact. Based on the data and information evaluated for this rulemaking, DEQ concluded that the proposed pH criteria will continue to protect salmonid populations and listed species, as described in the Technical Support Document for this rulemaking. Furthermore, DEQ does not expect any reduction in salmonid populations as a result of the proposed rule and does not expect that restoration efforts will be any less valuable or negatively affected from this rulemaking. The proposed rule amendments use the best scientific data available to ensure designations are accurate and protect the highest attainable aquatic life uses in waterbodies, even if the amended rules will result in less stringent criteria being applied in particular waterbodies.

Trout Unlimited commented that the pH criteria revision for Crooked River and Trout Creek may have a positive fiscal and economic impact on agricultural, industrial, and utility

interests in the watershed if there are decreased costs of compliance and/or or avoided costs under the changed pH criteria. Based on the data and information evaluated for this draft rulemaking, DEQ disagrees that the revised pH criteria will reduce the need for these entities to use appropriate BMPs and control pollutant loading to protect water quality. Even if waterbodies no longer exceed the new pH criteria, they are still listed for other water quality parameters (i.e., nutrients and algal growth) and DEQ still expects to develop total maximum daily loads for the basin. Total maximum daily loads are generally conducted at a basin scale and DEQ does not expect that BMPs for non-point sources will be affected by the change in pH criteria. BMPs used by agriculture to control the runoff of nutrients and sediment into the Crooked River and its tributaries should not change as a result of the small change to the pH criterion. The city of Prineville is currently required to keep pH between 6.0 and 9.0 and has done so for the last two permit cycles. DEQ does not expect the change in pH criteria to affect the city's permit limits or result in any fiscal impacts.

The Deschutes River Alliance commented that if salmonid populations are negatively affected by the proposed rules for pH, then different entities that make up the outdoor and recreation-based economies in Oregon may be negatively impacted. Deschutes River Alliance characterized the entities as groups falling into two overarching categories – direct recreation businesses and recreation-supporting businesses. Based on the data and information evaluated for this draft rule, DEQ concluded that the proposed pH criteria continues to protect salmon and trout and these populations are not expected to be negatively impacted by the proposed rules. DEQ will evaluate any further data or information provided though public comment on this topic to revise the proposed rule as needed.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would affect the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have either no effect or a slight positive effect on development costs if the rules increase the quality of the water supply for current and future housing developments. Local, regional, and urban water purveyors' operational costs may be considered part of housing costs. Therefore, the cleaner the original water supply, the lower the water purveyors' costs should be for treating and filtering it for delivery into networked water systems and subsequently the lower the potential water and wastewater utility fees for customers.

Racial Equity

ORS 183.335(2)(b)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

Tribal governments were made aware of the rulemaking process and consulted on this matter. Representatives from the Confederated Tribes of the Umatilla Indian Reservation participated in a technical advisory group convened seven times from 2020-2023, and representatives from the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians participated on the Rule Advisory Committee.

DEQ also engaged with agricultural, forestry, fishery and conservation communities through the Rule Advisory Committee.

This is a statewide rulemaking. The updated use designations ensure that more accurate and appropriate criteria are applied to protect fish and aquatic life in Oregon state waters.

The proposed rules may have positive impacts to help promote racial equity, particularly in benefitting Tribal fishing interests. The proposed rules will also help maintain healthy and abundant fisheries, including subsistence salmon and trout fisheries that benefit impoverished, rural and/or indigenous or BIPOC communities.

Environmental Justice

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues. DEQ considered these effects by:

- Conducting outreach to solicit input on technical development and rule development from different communities with cultural, economic, or recreational interests in health and abundance of fish and aquatic life throughout the state.

DEQ does not expect the proposed rules to disproportionately impact disadvantaged communities. DEQ received input that municipal wastewater treatment facilities could see increased costs that must be passed on to the customers and developers in the form of rate increases in user fees and system development charges if the proposed rules result in application of more stringent criteria. In this way, increased user fees can potentially impact vulnerable or disadvantaged communities. However, there are also potential environmental benefits from increased protection of healthy and abundant fisheries, including subsistence salmonid fisheries, important to rural and/or indigenous or Black, Indigenous and People of Color communities in the state.

Where investments are necessary to meet more stringent implementation requirements, there are funding resources available that include, but are not limited to, state and federal grants (including Clean Water Act Section 319 nonpoint source implementation grants) and below-market interest rate loans (that can include principal forgiveness) through the Clean Water State Revolving Fund program.

Potential NPDES Impacts to individual permittees

NPDES individual permittees with potential for more stringent criteria due to proposed fish use map updates

NPDES Facility	NPDES Permit File Number	Receiving Stream Name	Receiving Stream Reach Code	Water Quality Standard	Proposed Revised Fish Use			
					Year-Round Criterion	Spawning		
						New	Earlier Start	Later End
ODFW Marion Forks Hatchery	64495	Horn Cr.	17090005000611	Temperature	X			
Mt. Hood Meadows WWTP	58827	E. Fork Hood River	17070105000131	Temperature	X	X		
Parkdale S.D.	67545	Trout Cr.	17070105000475	Temperature	X			
Odell SD	63062	Odell Cr.	17070105000440	Temperature		X		
Diamond Fruit - Parkdale	24351	Wisehart Cr.	17070105016009	Temperature	X			
Diamond Fruit - Odell	24344	(Indirect to) Odell Cr.	17070105000440	Temperature		X		
Duckwall VanHorn	100115	(Ditch to) Neal Cr	17070105000431	Temperature	X		X	X
Terminal Ice	24356	(Ditch to) Neal Cr	17070105000431	Temperature	X		X	X
Duckwall-Pooley Fruit - Odell	25434	(Ditch to) Lenz Cr	17070105000987	Temperature	X		X	X
Pendleton POTW	68260	Umatilla River	17070103002208	Temperature		X		
Pacific City JWSA	66100	Nestucca River	17100203000033	Temperature		X		
Gold Beach	33864	Riley Cr.	17100312000452	Temperature		X		

NPDES Facility	NPDES Permit File Number	Receiving Stream Name	Receiving Stream Reach Code	Water Quality Standard	Proposed Revised Fish Use			
					Year-Round Criterion	Spawning		
						New	Earlier Start	Later End
Creswell	20927	Camas Swale Cr.	17090002000019	Temperature		X		
IP Springfield	96244	McKenzie River	17090004005149	Temperature		X		
City of Dallas	22546	Rickreal Cr.	17090007000079	Temperature		X		
EWEB Carmen Smith Outfall 001	28393	McKenzie River	17090004000308	Temperature		X		
EWEB Carmen Smith Outfall 002	28393	McKenzie River	17090004000307	Temperature		X		
Prineville	72252	Crooked River	17070305000034	Temperature		X		
Walla Walla Hatchery	77440	S. Fork Walla Walla R.	17070102000100	Temperature		X		
Multnomah Falls	109329	Columbia River	17080001000228	Temperature		X		
Bonneville/Tanner Cr.	90980	Columbia River	17080001000233	Temperature		X		
Hebo	10058	Three Rivers	17100203000317	Temperature			X	
Canyonville	13745	South Umpqua River	17100302000267	Temperature			X	
Myrtle Cr.	59643	South Umpqua River	17100302000088	Temperature			X	
Hoover Treated Wood	105306	South Umpqua River	17100302000019	Temperature			X	
Winston Green WWTP	98400	South Umpqua River	17100302000019	Temperature			X	
Roseburg Urban Sanitary Authority	76771	South Umpqua River	17100302000014	Temperature			X	
MWMC	55999	Willamette River	17090003000354	Temperature			X	
Silverton	81395	Silver Cr.	17090003000354	Temperature			X	
MacKenzie Forest Products	32910		17090001001288	Temperature			X	

NPDES Facility	NPDES Permit File Number	Receiving Stream Name	Receiving Stream Reach Code	Water Quality Standard	Proposed Revised Fish Use			
					Year-Round Criterion	Spawning		
						New	Earlier Start	Later End
Norpac Stayton	84820	Salem Ditch	17090007005950	Temperature			X	
Westfir	94805	Middle Fk. Willamette R.	17100307000150	Temperature			X	
Oakridge	62886	Middle Fk. Willamette R.	17100307000150	Temperature			X	
Shady Cove	80535	Rogue River	17100307000150	Temperature			X	
Butte Falls STP	12800	S. Fork Big Butte Cr.	17100302000093	Temperature			X	
Vernonia	92773	Nehalem R.	17070102000100	Temperature				X
Ashland (Ashland Cr.)	3780	Ashland Cr.	17100308000126	Temperature				X
Riddle POTW	75227	Cow Cr.	17100302000093	Temperature	X			X
City of Scio	79633	Thomas Creek	1709000607_02_103988	Dissolved Oxygen	X			
City of Sheridan	80920	S Yamhill River	1709000804_02_104034	Dissolved Oxygen	X			
City of Wallowa	93617	Wallowa River	1706010503_02_103351	Dissolved Oxygen	X			
City of Enterprise	27514	Wallowa River	1706010501_02_103346	Dissolved Oxygen	X			
City of Joseph	44329	Prairie Cr	1706010501_02_103344	Dissolved Oxygen	X			

Notes:
Location of facilities was primarily based on existing facility GIS layer, which appears to include some inaccuracies related to industrial facilities and is based on facility (not outfall) locations.
Ashland's primary outfall is being moved to Bear Cr., so the change will likely have minimal impact.
New spawning use has the potential to significantly impact discharges.
New core cold water use has the potential to impact dischargers.
The proposed changes to the cool water, migration, rearing & migration and bull trout uses appear to have little or no potential negative impact on permittees.

Federal relationship

Relationship to federal requirements.

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules implement federal requirements found in 40 CFR 131.10. Under the federal Clean Water Act, the state is required to designate beneficial uses of the state's waters and adopt criteria to protect those uses, including fish and aquatic life and water contact recreation.

What alternatives did DEQ consider if any?

DEQ did not consider alternatives to the use designation updates because the identification of beneficial uses is a necessary component of the state's water quality standards and a specific requirement of federal regulations under the Clean Water Act (40 CFR 131.10).

DEQ considered alternative methods for designating some specific use categories. Please see the Technical Support Document for additional information.

Land use

Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledge comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

The proposed rules will either have no effect or an indirect positive effect on land use if cleaner water and healthier watersheds supports land-use planning goals. Healthier and more productive watersheds may better support salmon and steelhead fisheries, recreational economies that attract tourism, and tourism-related jobs.

EQC Prior Involvement

The EQC was first involved in this issue in February 2022 when they received an informational item from staff about the scope and timeline for this rulemaking.

DEQ provided a status update to the EQC through a director's report at their meeting in September 2022.

Advisory Committee

Background

DEQ convened an Aquatic Life Use Updates Rulemaking Advisory Committee, which met five times between January and August 2022. The committee's purpose was to provide input to DEQ on the policy, fiscal and economic impacts and benefits of the proposed standards revisions for the stakeholders they represent.

The committee membership, shown in the table below, included representatives from EPA, National Marine Fisheries Service, U.S. Fish and Wildlife Service, Oregon Department of Fish and Wildlife, and representatives of Oregon tribes, fishing and sport fishing industries, forest products, agricultural, and business industries, hydropower, environmental and recreational organizations, and local governments. The committee met five times. The committee web page contains meeting agendas, presentations, materials, and summaries and is located at: Fish and Aquatic Life Use Updates.

The committee members were:

Fish and Aquatic Life Use Updates Advisory Committee	
Name	**Representing**
Emily Bowes	Rogue Riverkeeper
Sarah Cloud	Deschutes River Alliance
Mary Anne Cooper	Oregon Farm Bureau
Mike Eliason	Oregon Forest & Industries Council
James Fraser	Trout Unlimited
Liz Hamilton	Northwest Sport Fishing Industry Association
Megan Hill	Portland General Electric
Steve Kucas	Portland Water Bureau
John Schaefer	Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI)
Michael Martin	League of Oregon Cities
Chris McCabe	Northwest Pulp & Paper Association
Sharla Moffett	Oregon Business & Industry
John Runyon	Cascade Environmental Group, LLC / River Restoration Northwest
Susie Smith	Oregon Association of Clean Water Agencies

Glen Spain	Pacific Coast Federation of Fishermen's Associations / Institute for Fisheries Resources
Government Advisors	
Greg Sieglitz	NOAA- National Marine Fisheries Service
Brian Bangs	U.S. Fish and Wildlife Service
Rebecca Anthony	Oregon Department of Fish and Wildlife
Michelle Maier	U.S. Environmental Protection Agency

Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free email subscription service, to the following lists:
  - Water Quality Standards
  - DEQ Rulemaking
- Posted meeting information and materials on the web page for this rulemaking
- Added advisory committee announcements to DEQ's calendar of public meetings at DEQ Calendar.

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee was informed about the technical development process, methods, and other technical support materials that DEQ used to update the aquatic life use designations. Presentations were given on the history and background of the temperature and dissolved oxygen standards in Oregon, development of the methodology and rationale for designating fish and aquatic life uses for the temperature and dissolved oxygen standards, discussion of draft maps of the newly proposed aquatic life use designations, rationale for proposals for revising certain definitions associated with aquatic life uses, and rationale for proposals to change the pH criteria in the Crooked River and Trout Creek subbasins.

For additional information on advisory committee presentations and meeting summaries, see the advisory committee section of the rulemaking page: Fish and Aquatic Life Use Updates.

Public Engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On April 20, 2023, DEQ sent an advanced notice of the public hearing to interested parties on the following DEQ lists through GovDelivery:
    - Rulemaking
    - DEQ Public Notices
    - Water Quality Standards
- April 27, Filing a notice with the Oregon Secretary of State for publication in the May 2023 Oregon Bulletin;
- On May 3, 2023 open the public comment by sending a notice through GovDelivery.
- Notifying the EPA by email;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: Fish and Aquatic Life Use Updates.
- Emailing approximately 24,580 interested parties on the following DEQ lists through GovDelivery:
    - Rulemaking
    - DEQ Public Notices
    - Water Quality Standards
- Emailing advisory committee members,
- Emailing other interested parties that observed advisory committee meetings,
- Emailing the following key legislators required under ORS 183.335:
    - Senator Jeff Golden, Chair, Senate Committee on Natural Resources
    - Senator Fred Girod, Vice-Chair, Senate Committee on Natural Resources
    - Representative Ken Helm, Chair, House Committee on Agriculture, Land Use, Natural Resources and Water
    - Representative Mark Owens, Vice-Chair, House Committee on Agriculture, Land Use, Natural Resources and Water
    - Representative Annessa Hartman, Vice-Chair, House Committee on Agriculture, Land Use, Natural Resources and Water
- Posting on the DEQ event calendar: DEQ Calendar

How to comment on this rulemaking proposal

DEQ seeks public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. DEQ will accept comments by email, postal mail or verbally at the public hearing.

- **Email:** Send comments by email to AquaticLife.2022@DEQ.oregon.gov
- **Postal mail:** Oregon DEQ, Attn: James McConaghie/Water Quality Standards and Assessment, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232-4100
- **At public hearing:** 4 p.m., Tuesday, June 6, 2023

Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by 5 p.m., on Friday, June 23, 2023

Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

Public Hearing

DEQ plans to hold one public hearing.

The public hearing is online and by teleconference only.

Anyone can attend the hearing by webinar or teleconference.

Date: June 6, 2023
Start time: 4 p.m.

Call and web connection information:
Join online via Zoom

Join by phone:
Call-in number: 877-853-5257
Meeting ID: 816 7856 1323

Instructions on how to join the webinar or teleconference: Webinar instructions

DEQ will consider all comments and testimony received before the closing date. DEQ will summarize all comments and respond to comments in the Environmental Quality Commission staff report.

Accessibility Information

Translation or other formats

Español | 한국어 | **繁體中文** | **Русский** | **Tiếng Việt** | العربية
800-452-4011 | TTY: 711 | deqinfo@deq.oregon.gov

Non-discrimination statement
DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's Civil Rights and Environmental Justice page.

Supporting documents

This LINK provides access to these documents:

- Amended Tables and Figures
- Aquatic Life Use Updates Technical Support Document
- Use Attainability Analysis for Aquatic Life Use Designations
- Issue Paper: Aquatic Life Use Definitions Clarification
- Issue Paper: Proposed pH Criteria Revisions for the Crooked River and Trout Creek Subbasins, Deschutes Basin, Oregon

Draft Rules – Edits Highlighted

Key to Identifying Changed Text:

~~Deleted Text~~
New/inserted text

Chapter 340 Division 41
WATER QUALITY STANDARDS: BENEFICIAL USES, POLICIES, AND CRITERIA FOR OREGON

340-041-0002
Definitions

Definitions in this rule apply to all basins unless context requires otherwise.

(1) "401 Water Quality Certification" means a determination made by DEQ that a dredge and fill activity, private hydropower facility, or other federally licensed or permitted activity that may result in a discharge to waters of the state has adequate terms and conditions to prevent an exceedance of water quality criteria. The federal permit in question may not be issued without this state determination in accordance with the Federal Clean Water Act, section 401 (33 USC 1341).

(2) "Ambient Stream Temperature" means the stream temperature measured at a specific time and place. The selected location for measuring stream temperature must be representative of the stream in the vicinity of the point being measured.

(3) "Anthropogenic," when used to describe "sources" or "warming," means that which results from human activity.

(4) "Applicable Criteria" means the biologically based temperature criteria in OAR 340-041-0028(4), the superseding cold water protection criteria in 340-041-0028(11) or the superseding natural condition criteria in 340-041-0028(8). The applicable criteria may also be site-specific criteria approved by U.S. EPA. A subbasin may have a combination of applicable temperature criteria derived from some or all of these numeric and narrative criteria.

(5) "Appropriate Reference Site or Region" means a site on the same water body or within the same basin or ecoregion that has similar habitat conditions and represents the water quality and biological community attainable within the areas of concern.

(6) "Aquatic Species" means plants or animals that live at least part of their life cycle in waters of the state.

(7) "Basin" means a third-field hydrologic unit as identified by the U.S. Geological Survey.

(8) "BOD" means 5-day, 20°C Biochemical Oxygen Demand.

(9) "Cold-Water ~~Aquatic Life~~Species" means aquatic organisms that are physiologically restricted to cold water including, but not limited to, native salmon, steelhead, mountain whitefish, char including bull trout, and trout.

(10) "Cold Water Refugia" means those portions of a water body where or times during the diel temperature cycle when the water temperature is at least 2 degrees Celsius colder than the daily maximum temperature of the adjacent well-mixed flow of the water body.

(11) "Commission" or “EQC” means the Oregon Environmental Quality Commission.

(12) "Cool Water ~~Aquatic Life~~Species" means aquatic organisms that are physiologically restricted to cool waters including, but not limited to, native sturgeon, Pacific lamprey, suckers, chub, sculpins and certain species of cyprinids (minnows.)

(13) "Core Cold Water Habitat Use" means waters expected to maintain temperatures within the range generally considered optimal for salmon and steelhead rearing, or that are suitable for bull trout migration, foraging and sub-adult rearing that occurs during the summer. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 180A, 201A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A.

(14) "Critical Habitat" means those areas that support rare, threatened, or endangered species or serve as sensitive spawning and rearing areas for aquatic life as designated by the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration-Fisheries according to the Endangered Species Act (16 U.S. Code § 1531).

(15) "Daily Mean" for dissolved oxygen means the numeric average of an adequate number of data to describe the variation in dissolved oxygen concentration throughout a day, including daily maximums and minimums. For calculating the mean, concentrations in excess of 100 percent of saturation are valued at the saturation concentration.

(16) "Department" or "DEQ" means the Oregon State Department of Environmental Quality.

(17) "Designated Beneficial Use" means the purpose or benefit to be derived from a water body as designated by the Water Resources Department or the Water Resources Commission.

(18) "DO" means dissolved oxygen.

(19) "Ecological Integrity" means the summation of chemical, physical, and biological integrity capable of supporting and maintaining a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of the natural habitat of the region.

(20) "Epilimnion" means the seasonally stratified layer of a lake or reservoir above the metalimnion; the surface layer.

(21) "Erosion Control Plan" means a plan containing a list of best management practices to be applied during construction to control and limit soil erosion.

(22) “Estuarine Waters” means all mixed fresh and oceanic waters in estuaries or bays from the point of oceanic water intrusion inland to a line connecting the outermost points of the headlands or protective jetties.

(23) "High Quality Waters" means those waters that meet or exceed levels necessary to support the propagation of fish, shellfish and wildlife; recreation in and on the water; and other designated beneficial uses.

(24) "Hypolimnion" means the seasonally stratified layer of a lake or reservoir below the metalimnion; the bottom layer.

(25) "Industrial Waste" means any liquid, gaseous, radioactive, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

(26) "In Lieu Fee" means a fee collected by a jurisdiction in lieu of requiring construction of onsite stormwater quality control facilities.

(27) "Intergravel Dissolved Oxygen" (IGDO) means the concentration of oxygen measured in the water within the stream bed gravels. Measurements should be taken within a limited time period before emergence of fry.

(28) "Jurisdiction" means any city or county agency in the Tualatin River and Oswego Lake subbasin that regulates land development activities within its boundaries by approving plats or site plans or issuing permits for land development.

(29) "Land Development" means any human-induced change to improved or unimproved real estate including, but not limited to, construction, installation or expansion of a building or other structure; land division; drilling; or site alteration such as land surface mining, dredging, grading, construction of earthen berms, paving, improvements for use as parking or storage, excavation or clearing.

(30) "Load Allocation” or “LA" means the portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading that may range from reasonably accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting loading. Whenever possible, natural and nonpoint source loads should be distinguished.

(31) "Loading Capacity” or “LC" means the greatest amount of loading that a water body can receive without violating water quality standards.

(32) "Low Flow Period" means the flows in a stream resulting primarily from groundwater discharge or base flows augmented from lakes and storage projects during the driest period of the year. The dry weather period varies across the state according to climate and topography. Wherever the low flow period is indicated in Water Quality Management Plans, this period has been approximated by the inclusive months. Where applicable in a waste discharge permit, the low flow period may be further defined.

(33) "Managed Lakes" refers to lakes in which hydrology is managed by controlling the rate or timing of inflow or outflow.

(34) “Marine Waters” means all oceanic, offshore waters outside of estuaries or bays and within the territorial limits of the State of Oregon.

(35) "mg/l" or "mg/L" means milligrams per liter.

(36) "Metalimnion" means the seasonal, thermally stratified layer of a lake or reservoir that is characterized by a rapid change in temperature with depth and that effectively isolates the waters of the epilimnion from those of the hypolimnion during the period of stratification; the middle layer.

(37) "Migration Corridors" mean those waters that are predominantly used for salmon and steelhead migration during the summer and have little or no anadromous salmonid rearing in the months of July and August. Migration corridors are designated in Tables 101B and 121B and Figures 151A, 170A, 300A and 340A under OAR 340-041-0101 to 340-041-0340.

(38) "Minimum" for dissolved oxygen means the minimum recorded concentration including seasonal and diurnal minimums.

(39) "Monthly (30-day) Mean Minimum" for dissolved oxygen means the minimum of the 30 consecutive-day floating averages of the calculated daily mean dissolved oxygen concentration.

(40) "Natural Conditions" means conditions or circumstances affecting the physical, chemical, or biological integrity of a water of the state that are not influenced by past or present anthropogenic activities. Disturbances from wildfire, floods, earthquakes, volcanic or geothermal activity, wind, insect infestation and diseased vegetation are considered natural conditions.

(41) "Natural Thermal Potential" means the determination of the thermal profile of a water body using best available methods of analysis and the best available information on the site-potential riparian vegetation, stream geomorphology, stream flows and other measures to reflect natural conditions.

(42) "Nonpoint Sources" means any source of water pollution other than a point source. Generally, a nonpoint source is a diffuse or unconfined source of pollution where wastes can either enter into waters of the state or be conveyed by the movement of water into waters of the state.

(43) "Ocean Waters" means all oceanic, offshore waters outside of estuaries or bays and within the territorial limits of Oregon.

(44) "Outstanding Resource Waters" means waters designated by the EQC where existing high quality waters constitute an outstanding state or national resource based on their extraordinary water quality or ecological values or where special water quality protection is needed to maintain critical habitat areas.

(45) "Pollution" means such contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any water of the state that either by itself or in connection with any other substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.

(46) "Point Source" means a discernible, confined, and discrete conveyance including, but not limited to, a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or leachate collection system from which pollutants are or may be discharged. Point source does not include agricultural storm water discharges and return flows from irrigated agriculture.

(47) "Public Water" means the same as "waters of the state".

(48) "Public Works Project" means any land development conducted or financed by a local, state, or federal governmental body.

(49) "Reserve Capacity" means that portion of a receiving stream's loading capacity that has not been allocated to point sources or to nonpoint sources and natural background as waste load allocations or load allocations, respectively. The reserve capacity includes that loading capacity that has been set aside for a safety margin and is otherwise unallocated.

(50) "Resident Biological Community" means aquatic life expected to exist in a particular habitat when water quality standards for a specific ecoregion, basin or water body are met. This must be established by accepted biomonitoring techniques.

(51) "Salmon" means chinook, chum, coho, sockeye and pink salmon.

(52) "Salmon and Steelhead Spawning Use" means waters that are or could be used for salmon and steelhead spawning, egg incubation, and fry emergence. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 130B, 151B, 160B, 170B, 220B, 230B, 271B, 286B, 300B, 310B, 320B, and 340B.

(53) "Salmon and Trout Rearing and Migration Use" means thermally suitable rearing habitat for salmon, steelhead, rainbow trout, and cutthroat trout as designated on subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A.

(54) "Salmonid or Salmonids" means native salmon, trout, mountain whitefish and char including bull trout. For purposes of Oregon water quality standards, salmonid does not include brook or brown trout because they are introduced species.

(55) "Secondary Treatment" means the following depending on the context:

(a) For sewage wastes, secondary treatment means the minimum level of treatment mandated by U.S. Environmental Protection Agency regulations pursuant to Public Law 92-500.

(b) For industrial and other waste sources, secondary treatment means control equivalent to best practicable treatment.

(56) "Seven-Day Average Maximum Temperature" means a calculation of the average of the daily maximum temperatures from seven consecutive days made on a rolling basis.

(57) "Sewage" means the water-carried human or animal waste from residences, buildings, industrial establishments, or other places together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial wastes or wastes, as defined in this rule, may also be considered "sewage" within the meaning of this division.

(58) "Short-Term Disturbance" means a temporary disturbance of six months or less when water quality standards may be violated briefly but not of sufficient duration to cause acute or chronic effects on beneficial uses.

(59) "Spatial Median" means the value that falls in the middle of a data set of multiple intergravel dissolved oxygen (IGDO) measurements taken within a spawning area. Half the samples should be greater than and half the samples should be less than the spatial median.

(60) "SS" means suspended solids.

(61) "Stormwater Quality Control Facility" means any structure or drainage way designed, constructed and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may also include, but is not be limited to, existing features such as wetlands, water quality swales and ponds maintained as stormwater quality control facilities.

(62) "Subbasin" means a fourth-field hydrologic unit as identified by the U.S. Geological Survey.

(63) "Summer" means June 1 through September 30 of each calendar year.

(64) "Threatened or Endangered Species" means aquatic species listed as either threatened or endangered under the federal Endangered Species Act (16 U.S. Code § 1531 et seq. and Title 50 of the Code of Federal Regulations).

(65) "Total Maximum Daily Load (TMDL)" means the sum of the individual waste load allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. If Best Management Practices (BMPs) or other nonpoint source pollution controls make more stringent load allocations practicable, then wasteload allocations can be made less stringent. Thus, the TMDL process provides for nonpoint source control tradeoffs.

(66) "Toxic Substance" means those pollutants or combinations of pollutants, including disease-causing agents, that after introduction to waters of the state and upon exposure, ingestion, inhalation or assimilation either directly from the environment or indirectly by ingestion through food chains will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations in any organism or its offspring.

(67) "Wasteload Allocation" or "WLA" means the portion of a receiving water's loading capacity allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation.

(68) "Warm-Water Aquatic Life" means the aquatic communities that are adapted to warm-water conditions and do not contain either cold- or cool-water species.

(69) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances that may cause or tend to cause pollution of any water of the state.

(70) "Water Quality Limited" means one of the following:

(a) A receiving stream that does not meet narrative or numeric water quality criteria during the entire year or defined season even after the implementation of standard technology;

(b) A receiving stream that achieves and is expected to continue to achieve narrative or numeric water quality criteria but uses higher than standard technology to protect beneficial uses;

(c) A receiving stream for which there is insufficient information to determine whether water quality criteria are being met with higher-than-standard treatment technology or a receiving stream that would not be expected to meet water quality criteria during the entire year or defined season without higher than standard technology.

(71) "Water Quality Swale" means a natural depression or wide, shallow ditch used to temporarily store, route or filter runoff for the purpose of improving water quality.

(72) "Waters of the state" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.

(73) "Weekly (seven-day) Mean Minimum" for dissolved oxygen means the minimum of the seven consecutive-day floating average of the calculated daily mean dissolved oxygen concentration.

(74) "Weekly (seven-day) Minimum Mean" for dissolved oxygen means the minimum of the seven consecutive-day floating average of the daily minimum concentration. For application of the criteria, this value is the reference for diurnal minimums.

(75) "Without Detrimental Changes in the Resident Biological Community" means no loss of ecological integrity when compared to natural conditions at an appropriate reference site or region.

Statutory/Other Authority: ORS 468.020, 468B.010, 468B.015, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.035 & 468B.048
History:
DEQ 1-2015, f. & cert. ef. 1-7-15
DEQ 3-2012, f. & cert. ef. 5-21-12
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 3-2004, f. & cert. ef. 5-28-04
DEQ 17-2003, f. & cert. ef. 12-9-03

Chapter 340 Division 41
WATER QUALITY STANDARDS: BENEFICIAL USES, POLICIES, AND CRITERIA FOR OREGON

340-041-0135
Basin-Specific Criteria (Deschutes): Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the following ranges:

(a) All other Basin streams ~~(~~except streams in the Crooked River and Trout Creek subbasins and the Cascade lakes~~)~~: 6.5~~–~~ to 8.5;

(b) All streams in the Crooked River and the Trout Creek subbasins: 6.5 to 9.0;

(c) Cascade lakes above 3,000 feet altitude: pH values may not fall outside the range of 6.0 to 8.5.

(2) Total Dissolved Solids. Guide concentrations listed below may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-041-0562: 500.0 mg/l.

(3) La Pine Aquifer.

(a) In order to protect the shallow aquifer located in the vicinity of the community of La Pine in Deschutes County for present and future use as a drinking water source, it is the policy of the Environmental Quality Commission to support the implementation of the La Pine Aquifer Management Plan adopted by the Deschutes County Board of Commissioners on September 28, 1982, by requiring the following:

(b) The waste water generated outside the core area of the community of La Pine but within the study area described in the La Pine Aquifer Management Plan, will be subjected to regulation under the Department's on-site waste disposal rules (OAR 340-071);

(A) The core area of the community of La Pine is that area defined as follows: Located in a portion of Sections 10, 11, 14, and 15, Township 22 South, Range 10 East, Willamette Meridian, Deschutes County, Oregon, more particularly described as follows: Beginning at the northwest corner of the intersection of U.S. Highway 97 and First Street (aka Reed Road); thence in a northeasterly direction along the westerly right-of-way line of said U.S. Highway 97 a distance of 1,480 feet, more or less, to the intersection of said U.S. Highway 97 and the northerly line of the south one-half of the southwest one-quarter of said Section 11; thence in a westerly direction along the northerly line of the south one-half of the southwest one-quarter of said Section 11 a distance of 1,950 feet, more or less, to the south one-sixteenth corner between said Sections 10 and 11; thence in a northerly direction along the section line between Sections 10 and 11, 990 feet, more or less, to the northeast corner of the south one-half of the north one-half of the northeast one-quarter of the southeast one-quarter of said Section 10 being the northeast corner of the Bend-La Pine School District property; thence in a westerly direction along the north line of the said south one-half of the north one-half of the northeast one-quarter of the southeast one-

quarter, being the north line of the said Bend-La Pine School District property, 1,320 feet, more or less, to the northwest corner of the south one-half of the north one-half of the southeast one-quarter of the southeast one-quarter of said Section 10, said point further being the northwest corner of the Bend-La Pine School District property; thence in a southerly direction along the westerly line of the east one-half of the southeast one-quarter of said Section 10, 2, 310 feet, more or less, to a point at the intersection of the westerly line of the southeast one-quarter of the southeast one-quarter of said Section 10 and the northerly right-of-way line of said First Street, said point further being the southwest corner of the Bend-La Pine School District property; thence in an easterly direction along the northerly right-of-way line of said First Street, 350 feet, more or less, to a point on the northerly right-of-way line of said First Street due north of the northwest corner of the alley in Block 16 of the Plat of La Pine Subdivision; thence in a southerly direction along the westerly side of said alley 550 feet, more or less, to a point along the southerly right-of-way of 2nd Street due south of the southwest corner of the alley in Block 16 of the Plat of La Pine Subdivision; thence in an easterly direction along the southerly right-of-way of 2nd Street, 390 feet, more or less, to the southwest corner of the intersection of Stillwell Street and 2nd Street; thence in a southerly direction along the westerly right-of-way line of said Stillwell Street, 950 feet, more or less, to the northwest corner of the intersection of said Stillwell Street and 4th Street; thence in a southerly direction along the west right-of-way line of Stillwell Street approximately 1,186 feet to the northwest corner of the intersection of Stillwell Street and Hill Street; thence in a southwesterly direction along the west right-of-way line of Hill Street approximately 340 feet to the intersection of the west line of Hill Street with the north line of 8th Street; thence westerly along the north line of 8th Street, 41 feet, more or less to the northeast corner of the intersection of 8th Street and Stearns Street; thence in a southerly direction along the east right-of-way line of Stearns Street approximately 387 feet to the northeast corner of the intersection of Stearns Street and 9th Street; thence in an easterly direction along the north right-of-way line of 9th Street and the easterly extension of the north line of said 9th Street, 1,093 feet to its intersection with the east right-of-way line of Pengra Huntington Road; thence in a northerly direction along the east right-of-way line of Pengra Huntington Road approximately 1,166 feet to the southwest corner of Lot 31, Government Homesite Tracts; thence in an easterly direction along the south boundary of said Lot 31 approximately 263 feet to the southeast corner of said Lot 31; thence in a northerly direction along the east boundary of said Lot 31 approximately 200 feet to the south right-of-way line of Finley Butte Road; thence in an easterly direction along the south right-of-way line of Finley Butte Road approximately 675 feet to the southeast corner of the intersection of Finley Butte Road and Bonnie Road; thence in a northerly direction along the east right-of-way line of Bonnie Road approximately 1,075 feet to the southeast corner of the intersection of Bonnie Road and William Foss Road; thence in an easterly direction along the southerly right-of-way line of said William Foss Road, 1,640 feet, more or less, to the north-south center section line of said Section 14 thence in a northerly direction along the north-south center line of said Section 14, 1,635 feet, more or less, to the north right-of-way line of said First Street (aka Reed Road); thence in a westerly direction along the north right-of-way line of said First Street, 1,432 feet, more or less, to the point of beginning;

(B) All dwellings and buildings that contain plumbing fixtures inside this core area boundary must eliminate the discharge of inadequately treated sewage, abandon existing on-site sewage disposal systems and connect to the regional sewerage facility. This must be done within 90 days following notification by the approved regional sewerage agency that sewer service is available.

(c) Waste disposal systems for new developments within the La Pine Aquifer Management Plan Boundary where development density exceeds two single family equivalent dwelling units per acre or which have an aggregate waste flow in excess of 5,000 gallons per day may only be approved if a study is conducted by the applicant which convinces the department that the aquifer will not be unreasonably degraded.

(4) In addition to the requirements set forth in section (3) of this rule, the following actions are encouraged:

(a) Since the aquifer is presently degraded to the point where it does not meet Federal Drinking Water Standards, and the installation of sewer facilities will not immediately restore the quality to safe levels, Deschutes County should notify the citizens of the La Pine core area of the need to develop a safe drinking water supply for the community as soon as possible;

(b) Residents of the La Pine area are encouraged to test their drinking water frequently;

(c) Owners of underground liquid storage tanks are encouraged to periodically test the storage tanks to assure prompt detection and repair of leaks;

(d) Data on the quality of the shallow aquifer in and around La Pine should be obtained on a periodic basis to assess the effect of the above waste water management decisions on the quality of the groundwater.

(5) Minimum Design Criteria for Treatment and Control of Sewage Wastes:

(a) Metolius River Subbasin and Deschutes River Basin above Bend Diversion Dam (river mile 165): Treatment resulting in monthly average effluent concentrations not to exceed 5 mg/l of BOD and 5 mg/l of SS or equivalent control;

(b) Deschutes River from the Bend Diversion Dam (river mile 165) downstream to the Pelton Reregulating Dam (river mile 100) and for the Crooked River Subbasin:

(A) During periods of low stream flows (approximately April 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 10 mg/l of BOD and 10 mg/l of SS or equivalent control;

(B) During the period of high stream flows (approximately November 1 to March 31): A minimum of secondary treatment or equivalent and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

(c) Deschutes from the Pelton Reregulating Dam (river mile 100) downstream to the mouth:

(A) During periods of low stream flows (approximately April 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control;

(B) During the period of high stream flows (approximately November 1 to March 31): A minimum of secondary treatment or equivalent and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 17-2003, f. & cert. ef. 12-9-03

Chapter 340 Division 41
WATER QUALITY STANDARDS: BENEFICIAL USES, POLICIES, AND CRITERIA FOR OREGON

340-041-0101
Basin-Specific Criteria (Main Stem Columbia River): Beneficial Uses to Be Protected in the Main Stem Columbia River

(1) Water quality in the main stem Columbia River (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 101A (November 2003).

(2) Designated fish uses to be protected in the main stem Columbia River are shown in Table 101B (April 2023~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0101: Table 101C.

(b) In addition to the salmonid spawning areas shown on Table 101C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(~~3~~4) Coastal water contact recreation and shellfish harvesting use is to be protected in the portion of the main stem Columbia River designated for these uses in Figure 101A (August 2016).

[NOTE: View a PDF of Figures by clicking on "Tables" link below."

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0121
Basin-Specific Criteria (Main Stem Snake River): Beneficial Uses to Be Protected in the Main Stem Snake River

(1) Water quality in the main stem Snake River (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 121A (August 2005).

(2) Designated fish uses to be protected in the main stem Snake River are shown in Table 121B (April 2022~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0121: Table 121C.

(b) In addition to the salmonid spawning areas shown on Table 121C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0130
Basin-Specific Criteria (Deschutes): Beneficial Uses to Be Protected in the Deschutes Basin

(1) Water quality in the Deschutes Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 130A (November 2003).

(2) Designated fish uses to be protected in the Deschutes Basin are shown in Figures 130A, ~~and~~ 130B, 130C and 130D (April 2022~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria apply to the salmonid spawning locations and times shown on OAR 340-041-0130: Figure 130D.

(b) In addition to the salmonid spawning areas shown on Figure 130D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available.

DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0140
Basin-Specific Criteria (Goose and Summer Lakes): Beneficial Uses to be Protected in Goose and Summer Lake Basins

(1) Water quality in the Goose and Summer Lake Basins (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 140A (November 2003).

(2) Designated fish uses to be protected in the Goose and Summer Lake Basins are shown in Figure 140A, 140B, and 140C ~~Table 140B~~ (April 2023~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0140: Figure 140C.

(b) In addition to the salmonid spawning areas shown on shown on Figure 140C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0151
Basin-Specific Criteria (Grande Ronde): Beneficial Uses to Be Protected in the Grande Ronde Basin

(1) Water quality in the Grande Ronde Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 151A (November 2003).

(2) Designated fish uses to be protected in the Grande Ronde Basin are shown in Figures 151A, ~~and~~ 151B, 151C and 151D (April 2022~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0151: Figure 151D.

(b) In addition to the salmonid spawning areas shown on Figure 151D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0160
Basin-Specific Criteria (Hood): Beneficial Uses to Be Protected in the Hood Basin

(1) Water quality in the Hood Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 160A (November 2003).

(2) Designated fish uses to be protected in the Hood Basin are shown in Figures 160A, ~~and~~ 160B, 160C and 160D. (April 2022~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0101: Figure 160D.

(b) In addition to the salmonid spawning areas shown on Figure 160D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0170
Basin-Specific Criteria (John Day): Beneficial Uses to Be Protected in the John Day Basin

(1) Water quality in the John Day Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 170A (November 2003).

(2) Designated fish uses to be protected in the John Day Basin are shown in Figures 170A, ~~and~~ 170B, 170C and 170D (April 2022~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on the following tables and figures in OAR 340-041-0170: Figure 170D.

(b) In addition to the salmonid spawning areas shown on Figure 170D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 12-2022, minor correction filed 08/09/2022, effective 08/09/2022
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0180
Basin-Specific Criteria (Klamath): Beneficial Uses to Be Protected in the Klamath Basin

(1) Water quality in the Klamath Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 180A (August 2005).

(2) Designated fish uses to be protected in the Klamath Basin are shown in Figures 180A, 180B, 180C, and 180D (April 2023~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0180 Figure 180D.

(b) In addition to the salmonid spawning areas shown on Figure 180D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0190
Basin-Specific Criteria (Malheur Lake): Beneficial Uses to Be Protected in the Malheur Lake Basin

(1) Water quality in the Malheur Lake Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 190A (November 2003).

(2) Designated fish uses to be protected in the Malheur Lake Basin are shown in Figures 190A, 190B, 190C. ~~Table 190B,~~ (April 2023~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0190: Figure 190C.

(b) In addition to the salmonid spawning areas shown on Figure 190C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0201
Basin-Specific Criteria (Malheur River):Beneficial Uses to Be Protected in the Malheur River Basin

(1) Water quality in the Malheur River Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 201A (August 2005).

(2) Designated fish uses to be protected in the Malheur River Basin are shown in Figures 201A, 201B and 201C (April 2023~~August 2005~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on the following tables and figures in OAR 340-041-0201: Figure 201C.

(b) In addition to the salmonid spawning areas shown on Figure 201C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically

through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking~~clickiing~~ on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0220
Basin-Specific Criteria (Mid Coast Basin): Beneficial Uses to Be Protected in the Mid Coast Basin

(1) Water quality in the Mid Coast Basin (see Figure 1) may be managed to protect the designated beneficial uses shown in Table 220A (November 2003).

(2) Designated fish uses to be protected in the Mid Coast Basin are shown in Figures 220A, ~~and~~ 220B, 220I and 220J (April 2023~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on the following tables and figures in OAR 340-041-0220: Figure 220J.

(b) In addition to the salmonid spawning areas shown on Figure 220J, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(~~3~~4) Coastal water contact recreation use is to be protected in all Mid Coast Basin marine waters and in coastal waters designated in Figures 220C through 220H (August 2016).

(45) Shellfish harvesting use is to be protected in all Mid Coast Basin marine waters and in coastal waters designated in Figures 220C through 220H (August 2016).

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0230
Basin-Specific Criteria (North Coast): Beneficial Uses to Be Protected in the North Coast Basin

(1) Water quality in the North Coast Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 230A (November 2003).

(2) Designated fish uses to be protected in the North Coast Basin are shown in Figures 230A, ~~and~~ 230B, 230I and 230J (April 2023~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0230: Figure 230J.

(b) In addition to the salmonid spawning areas shown on Figure 230J, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(~~3~~4) Coastal water contact recreation use is to be protected in all North Coast Basin marine waters and in coastal waters designated in Figures 230C through 230H (August 2016).

(~~4~~5) Shellfish harvesting use is to be protected in all North Coast Basin marine waters and in coastal waters as designated in Figures 230Cthrough 230H (August 2016).

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0250

Basin-Specific Criteria (Owyhee): Beneficial Uses to Be Protected in the Owyhee Basin

(1) Water quality in the Owyhee Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 250A (November 2003).

(2) Designated fish uses to be protected in the Owyhee Basin are shown in Figure 250A, 250B, and 250C ~~Table 250B~~ (April 2023~~November 2003~~).

(3) For purposes of applying the salmonid spawning criteria for active resident trout spawning areas as defined in OAR 340-041-0016 (1):

(a) Salmonid spawning use, including resident trout spawning is designated for the locations and times shown on OAR 340-041-0250: Figure 250C.

(b) In addition to the salmonid spawning areas shown on Figure 250C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas on a publicly available inventory until such time that the use determinations are incorporated into the designated use tables and maps in OAR 340-041. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing salmonid spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0260

Basin-Specific Criteria (Powder/Burnt): Beneficial Uses to Be Protected in the Powder/Burnt Basins

(1) Water quality in the Powder/Burnt Basins (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 260A (August 2005).

(2) Designated fish uses to be protected in the Powder/Burnt Basins are shown in Figure 260A, 260B, and 260C (April 2022~~November 2003~~).

(3) For purposes of applying the salmonid spawning criteria for active resident trout spawning areas as defined in OAR 340-041-0016 (1):

(a) Salmonid spawning use, including resident trout spawning is designated for the locations and times shown on OAR 340-041-0260: Figure 260C.

(b) In addition to the salmonid spawning areas shown on Figure 260C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas not found to be spawning habitat on a publicly available inventory until such time that the use determinations are incorporated into the designated use tables and maps in OAR 340-041. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing salmonid spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0271
Basin-Specific Criteria (Rogue): Beneficial Uses to Be Protected in the Rogue Basin

(1) Water quality in the Rogue Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 271A (November 2003).

(2) Designated fish uses to be protected in the Rogue Basin are shown in Figures 271A, ~~(November 2003) and~~ 271B, 271C and 271D (April 2023~~August 2005~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0271: Figures 271D.

(b) In addition to the salmonid spawning areas shown on Figure 271D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below~~.~~.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0286
Basin-Specific Criteria (Sandy Basin): Beneficial Uses to Be Protected in the Sandy Basin

(1) Water quality in the Sandy Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 286A (November 2003).

(2) Designated fish uses to be protected in the Sandy Basin are shown in Figures 286A, ~~and~~ 286B, 286C and 286D (April 2023~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0286A: Figure 286D.

(b) In addition to the salmonid spawning areas shown on Figure 286D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0300
Basin-Specific Criteria (South Coast): Beneficial Uses to Be Protected in the South Coast Basin

(1) Water quality in the South Coast Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 300A (November 2003).

(2) Designated fish uses to be protected in the South Coast Basin are shown in Figures 300A, ~~(August 2005) and~~ 300B, 300E and 300F (April 2023~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0300: Figure 300F.

(b) In addition to the salmonid spawning areas shown on Figure 300F, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(~~3~~4) Coastal water contact recreation use is to be protected in all South Coast Basin marine waters and in coastal waters designated in Figures 300C and 300D (August 2016).

(~~4~~5) Shellfish harvesting use is to be protected in all South Coast Basin marine waters and in coastal waters as designated in Figures 300C and 300D (August 2016)

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0310
Basin-Specific Criteria (Umatilla): Beneficial Uses to Be Protected in the Umatilla Basin

(1) Water quality in the Umatilla Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 310A (January 2015).

(2) Designated fish uses to be protected in the Umatilla Basin are shown in Figures 310A, ~~and~~ 310B, 310C and 310D (April 2023~~November 2003~~, except as noted in Table 310A).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0310: Figures 310D.

(b) In addition to the salmonid spawning areas shown on Figures 310D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below~~.~~.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 1-2015, f. & cert. ef. 1-7-15
DEQ 3-2012, f. & cert. ef. 5-21-12
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0320
Basin-Specific Criteria (Umpqua Basin): Beneficial Uses to Be Protected in the Umpqua Basin

(1) Water quality in the Umpqua Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 320A (November 2003).

(2) Designated fish uses to be protected in the Umpqua Basin are shown in Figures 320A, ~~(November 2003) and~~ 320B, 320D and 320E (April 2023~~August 2005~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-01320:Figure 320E.

(b) In addition to the salmonid spawning areas shown on Figures 320E, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(~~3~~4) Coastal water contact recreation use is to be protected in all marine waters adjacent to the Umpqua River and in coastal waters designated in Figure 320C (August 2016).

(~~4~~5) Shellfish harvesting use is to be protected in all marine waters adjacent to the Umpqua River and in coastal waters as designated in Figure 320C (August 2016).

[NOTE: View a PDF of referenced Tables and Figures by clicking on the "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2018, minor correction filed 02/14/2018, effective 02/14/2018
DEQ 32-2017, minor correction filed 11/30/2017, effective 11/30/2017
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0330
Basin-Specific Criteria (Walla Walla): Beneficial Uses to Be Protected in the Walla Walla Basin

(1) Water quality in the Walla Walla Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 330A (November 2003).

(2) Designated fish uses to be protected in the Walla Walla Basin are shown in Figures 310A, ~~and~~ 310B, 310C and 310D (April 2023~~November 2003~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0330: Figure 310D.

(b) In addition to the salmonid spawning areas shown on Figures 310D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0340
Basin-Specific Criteria (Willamette): Beneficial Uses to Be Protected in the Willamette Basin

(1) Water quality in the Willamette Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 340A (August 2005).

(2) Designated fish uses to be protected in the Willamette Basin are shown in Figures 340A, ~~(November 2003) and~~ 340B, 340C and 340D (April 2023~~August 2005~~).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on the following tables and figures in OAR 340-041-0340: Figure 340D.

(b) In addition to the salmonid spawning areas shown on Figure 340D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 5-2020, minor correction filed 02/03/2020, effective 02/03/2020
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

Draft Rules – Edits Included

Chapter 340 Division 41
WATER QUALITY STANDARDS: BENEFICIAL USES, POLICIES, AND CRITERIA FOR OREGON

340-041-0002
Definitions

Definitions in this rule apply to all basins unless context requires otherwise.

(1) "401 Water Quality Certification" means a determination made by DEQ that a dredge and fill activity, private hydropower facility, or other federally licensed or permitted activity that may result in a discharge to waters of the state has adequate terms and conditions to prevent an exceedance of water quality criteria. The federal permit in question may not be issued without this state determination in accordance with the Federal Clean Water Act, section 401 (33 USC 1341).

(2) "Ambient Stream Temperature" means the stream temperature measured at a specific time and place. The selected location for measuring stream temperature must be representative of the stream in the vicinity of the point being measured.

(3) "Anthropogenic," when used to describe "sources" or "warming," means that which results from human activity.

(4) "Applicable Criteria" means the biologically based temperature criteria in OAR 340-041-0028(4), the superseding cold water protection criteria in 340-041-0028(11) or the superseding natural condition criteria in 340-041-0028(8). The applicable criteria may also be site-specific criteria approved by U.S. EPA. A subbasin may have a combination of applicable temperature criteria derived from some or all of these numeric and narrative criteria.

(5) "Appropriate Reference Site or Region" means a site on the same water body or within the same basin or ecoregion that has similar habitat conditions and represents the water quality and biological community attainable within the areas of concern.

(6) "Aquatic Species" means plants or animals that live at least part of their life cycle in waters of the state.

(7) "Basin" means a third-field hydrologic unit as identified by the U.S. Geological Survey.

(8) "BOD" means 5-day, 20°C Biochemical Oxygen Demand.

(9) "Cold Water Species" means aquatic organisms that are physiologically restricted to cold water including, but not limited to, native salmon, steelhead, mountain whitefish, char including bull trout, and trout.

(10) "Cold Water Refugia" means those portions of a water body where or times during the diel temperature cycle when the water temperature is at least 2 degrees Celsius colder than the daily maximum temperature of the adjacent well-mixed flow of the water body.

(11) "Commission" or “EQC” means the Oregon Environmental Quality Commission.

(12) "Cool Water Species" means aquatic organisms that are physiologically restricted to cool waters including, but not limited to, native sturgeon, Pacific lamprey, suckers, chub, sculpins and certain species of cyprinids (minnows.)

(13) "Core Cold Water Habitat Use" means waters expected to maintain temperatures within the range generally considered optimal for salmon and steelhead rearing, or that are suitable for bull trout migration, foraging and sub-adult rearing that occurs during the summer. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 180A, 201A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A.

(14) "Critical Habitat" means those areas that support rare, threatened, or endangered species or serve as sensitive spawning and rearing areas for aquatic life as designated by the U.S. Fish and Wildlife Service or National Oceanic and Atmospheric Administration-Fisheries according to the Endangered Species Act (16 U.S. Code § 1531).

(15) "Daily Mean" for dissolved oxygen means the numeric average of an adequate number of data to describe the variation in dissolved oxygen concentration throughout a day, including daily maximums and minimums. For calculating the mean, concentrations in excess of 100 percent of saturation are valued at the saturation concentration.

(16) "Department" or "DEQ" means the Oregon State Department of Environmental Quality.

(17) "Designated Beneficial Use" means the purpose or benefit to be derived from a water body as designated by the Water Resources Department or the Water Resources Commission.

(18) "DO" means dissolved oxygen.

(19) "Ecological Integrity" means the summation of chemical, physical, and biological integrity capable of supporting and maintaining a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to that of the natural habitat of the region.

(20) "Epilimnion" means the seasonally stratified layer of a lake or reservoir above the metalimnion; the surface layer.

(21) "Erosion Control Plan" means a plan containing a list of best management practices to be applied during construction to control and limit soil erosion.

(22) “Estuarine Waters” means all mixed fresh and oceanic waters in estuaries or bays from the point of oceanic water intrusion inland to a line connecting the outermost points of the headlands or protective jetties.

(23) "High Quality Waters" means those waters that meet or exceed levels necessary to support the propagation of fish, shellfish and wildlife; recreation in and on the water; and other designated beneficial uses.

(24) "Hypolimnion" means the seasonally stratified layer of a lake or reservoir below the metalimnion; the bottom layer.

(25) "Industrial Waste" means any liquid, gaseous, radioactive, or solid waste substance or a combination thereof resulting from any process of industry, manufacturing, trade, or business or from the development or recovery of any natural resources.

(26) "In Lieu Fee" means a fee collected by a jurisdiction in lieu of requiring construction of onsite stormwater quality control facilities.

(27) "Intergravel Dissolved Oxygen" (IGDO) means the concentration of oxygen measured in the water within the stream bed gravels. Measurements should be taken within a limited time period before emergence of fry.

(28) "Jurisdiction" means any city or county agency in the Tualatin River and Oswego Lake subbasin that regulates land development activities within its boundaries by approving plats or site plans or issuing permits for land development.

(29) "Land Development" means any human-induced change to improved or unimproved real estate including, but not limited to, construction, installation or expansion of a building or other structure; land division; drilling; or site alteration such as land surface mining, dredging, grading, construction of earthen berms, paving, improvements for use as parking or storage, excavation or clearing.

(30) "Load Allocation" or "LA" means the portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading that may range from reasonably accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting loading. Whenever possible, natural and nonpoint source loads should be distinguished.

(31) "Loading Capacity" or "LC" means the greatest amount of loading that a water body can receive without violating water quality standards.

(32) "Low Flow Period" means the flows in a stream resulting primarily from groundwater discharge or base flows augmented from lakes and storage projects during the driest period of the year. The dry weather period varies across the state according to climate and topography. Wherever the low flow period is indicated in Water Quality Management Plans, this period has been approximated by the inclusive months. Where applicable in a waste discharge permit, the low flow period may be further defined.

(33) "Managed Lakes" refers to lakes in which hydrology is managed by controlling the rate or timing of inflow or outflow.

(34) “Marine Waters” means all oceanic, offshore waters outside of estuaries or bays and within the territorial limits of the State of Oregon.

(35) "mg/l" or "mg/L" means milligrams per liter.

(36) "Metalimnion" means the seasonal, thermally stratified layer of a lake or reservoir that is characterized by a rapid change in temperature with depth and that effectively isolates the waters of the epilimnion from those of the hypolimnion during the period of stratification; the middle layer.

(37) "Migration Corridors" mean those waters that are predominantly used for salmon and steelhead migration during the summer and have little or no anadromous salmonid rearing in the months of July and August. Migration corridors are designated in Tables 101B and 121B and Figures 151A, 170A, 300A and 340A under OAR 340-041-0101 to 340-041-0340.

(38) "Minimum" for dissolved oxygen means the minimum recorded concentration including seasonal and diurnal minimums.

(39) "Monthly (30-day) Mean Minimum" for dissolved oxygen means the minimum of the 30 consecutive-day floating averages of the calculated daily mean dissolved oxygen concentration.

(40) "Natural Conditions" means conditions or circumstances affecting the physical, chemical, or biological integrity of a water of the state that are not influenced by past or present anthropogenic activities. Disturbances from wildfire, floods, earthquakes, volcanic or geothermal activity, wind, insect infestation and diseased vegetation are considered natural conditions.

(41) "Natural Thermal Potential" means the determination of the thermal profile of a water body using best available methods of analysis and the best available information on the site-potential riparian vegetation, stream geomorphology, stream flows and other measures to reflect natural conditions.

(42) "Nonpoint Sources" means any source of water pollution other than a point source. Generally, a nonpoint source is a diffuse or unconfined source of pollution where wastes can either enter into waters of the state or be conveyed by the movement of water into waters of the state.

(43) "Ocean Waters" means all oceanic, offshore waters outside of estuaries or bays and within the territorial limits of Oregon.

(44) "Outstanding Resource Waters" means waters designated by the EQC where existing high quality waters constitute an outstanding state or national resource based on their extraordinary water quality or ecological values or where special water quality protection is needed to maintain critical habitat areas.

(45) "Pollution" means such contamination or other alteration of the physical, chemical, or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, silt, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any water of the state that either by itself or in connection with any other

substance present can reasonably be expected to create a public nuisance or render such waters harmful, detrimental, or injurious to public health, safety, or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wildlife, fish, other aquatic life or the habitat thereof.

(46) "Point Source" means a discernible, confined, and discrete conveyance including, but not limited to, a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft, or leachate collection system from which pollutants are or may be discharged. Point source does not include agricultural storm water discharges and return flows from irrigated agriculture.

(47) "Public Water" means the same as "waters of the state".

(48) "Public Works Project" means any land development conducted or financed by a local, state, or federal governmental body.

(49) "Reserve Capacity" means that portion of a receiving stream's loading capacity that has not been allocated to point sources or to nonpoint sources and natural background as waste load allocations or load allocations, respectively. The reserve capacity includes that loading capacity that has been set aside for a safety margin and is otherwise unallocated.

(50) "Resident Biological Community" means aquatic life expected to exist in a particular habitat when water quality standards for a specific ecoregion, basin or water body are met. This must be established by accepted biomonitoring techniques.

(51) "Salmon" means chinook, chum, coho, sockeye and pink salmon.

(52) "Salmon and Steelhead Spawning Use" means waters that are or could be used for salmon and steelhead spawning, egg incubation, and fry emergence. These uses are designated on the following subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Tables 101B, and 121B, and Figures 130B, 151B, 160B, 170B, 220B, 230B, 271B, 286B, 300B, 310B, 320B, and 340B.

(53) "Salmon and Trout Rearing and Migration Use" means thermally suitable rearing habitat for salmon, steelhead, rainbow trout, and cutthroat trout as designated on subbasin maps set out at OAR 340-041-0101 to 340-041-0340: Figures 130A, 151A, 160A, 170A, 220A, 230A, 271A, 286A, 300A, 310A, 320A, and 340A.

(54) "Salmonid or Salmonids" means native salmon, trout, mountain whitefish and char including bull trout. For purposes of Oregon water quality standards, salmonid does not include brook or brown trout because they are introduced species.

(55) "Secondary Treatment" means the following depending on the context:

(a) For sewage wastes, secondary treatment means the minimum level of treatment mandated by U.S. Environmental Protection Agency regulations pursuant to Public Law 92-500.

(b) For industrial and other waste sources, secondary treatment means control equivalent to best practicable treatment.

(56) "Seven-Day Average Maximum Temperature" means a calculation of the average of the daily maximum temperatures from seven consecutive days made on a rolling basis.

(57) "Sewage" means the water-carried human or animal waste from residences, buildings, industrial establishments, or other places together with such groundwater infiltration and surface water as may be present. The admixture with sewage of industrial wastes or wastes, as defined in this rule, may also be considered "sewage" within the meaning of this division.

(58) "Short-Term Disturbance" means a temporary disturbance of six months or less when water quality standards may be violated briefly but not of sufficient duration to cause acute or chronic effects on beneficial uses.

(59) "Spatial Median" means the value that falls in the middle of a data set of multiple intergravel dissolved oxygen (IGDO) measurements taken within a spawning area. Half the samples should be greater than and half the samples should be less than the spatial median.

(60) "SS" means suspended solids.

(61) "Stormwater Quality Control Facility" means any structure or drainage way designed, constructed and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may also include, but is not be limited to, existing features such as wetlands, water quality swales and ponds maintained as stormwater quality control facilities.

(62) "Subbasin" means a fourth-field hydrologic unit as identified by the U.S. Geological Survey.

(63) "Summer" means June 1 through September 30 of each calendar year.

(64) "Threatened or Endangered Species" means aquatic species listed as either threatened or endangered under the federal Endangered Species Act (16 U.S. Code § 1531 et seq. and Title 50 of the Code of Federal Regulations).

(65) "Total Maximum Daily Load (TMDL)" means the sum of the individual waste load allocations (WLAs) for point sources and load allocations (LAs) for nonpoint sources and background. If receiving water has only one point source discharger, the TMDL is the sum of that point source WLA plus the LAs for any nonpoint sources of pollution and natural background sources, tributaries, or adjacent segments. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. If Best Management Practices (BMPs) or other nonpoint source pollution controls make more stringent load allocations practicable, then wasteload allocations can be made less stringent. Thus, the TMDL process provides for nonpoint source control tradeoffs.

(66) "Toxic Substance" means those pollutants or combinations of pollutants, including disease-causing agents, that after introduction to waters of the state and upon exposure, ingestion,

inhalation or assimilation either directly from the environment or indirectly by ingestion through food chains will cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations in any organism or its offspring.

(67) "Wasteload Allocation" or "WLA" means the portion of a receiving water's loading capacity allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation.

(68) "Warm-Water Aquatic Life" means the aquatic communities that are adapted to warm-water conditions and do not contain either cold- or cool-water species.

(69) "Wastes" means sewage, industrial wastes, and all other liquid, gaseous, solid, radioactive, or other substances that may cause or tend to cause pollution of any water of the state.

(70) "Water Quality Limited" means one of the following:

(a) A receiving stream that does not meet narrative or numeric water quality criteria during the entire year or defined season even after the implementation of standard technology;

(b) A receiving stream that achieves and is expected to continue to achieve narrative or numeric water quality criteria but uses higher than standard technology to protect beneficial uses;

(c) A receiving stream for which there is insufficient information to determine whether water quality criteria are being met with higher-than-standard treatment technology or a receiving stream that would not be expected to meet water quality criteria during the entire year or defined season without higher than standard technology.

(71) "Water Quality Swale" means a natural depression or wide, shallow ditch used to temporarily store, route or filter runoff for the purpose of improving water quality.

(72) "Waters of the state" means lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon, and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters) that are located wholly or partially within or bordering the state or within its jurisdiction.

(73) "Weekly (seven-day) Mean Minimum" for dissolved oxygen means the minimum of the seven consecutive-day floating average of the calculated daily mean dissolved oxygen concentration.

(74) "Weekly (seven-day) Minimum Mean" for dissolved oxygen means the minimum of the seven consecutive-day floating average of the daily minimum concentration. For application of the criteria, this value is the reference for diurnal minimums.

(75) "Without Detrimental Changes in the Resident Biological Community" means no loss of ecological integrity when compared to natural conditions at an appropriate reference site or region.

Statutory/Other Authority: ORS 468.020, 468B.010, 468B.015, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.035 & 468B.048
History:
DEQ 1-2015, f. & cert. ef. 1-7-15
DEQ 3-2012, f. & cert. ef. 5-21-12
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 3-2004, f. & cert. ef. 5-28-04
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0135
Basin-Specific Criteria (Deschutes): Water Quality Standards and Policies for this Basin

(1) pH (hydrogen ion concentration). pH values may not fall outside the following ranges:

(a) All other Basin streams except streams in the Crooked River and Trout Creek subbasins and the Cascade lakes: 6.5–to 8.5;

(b) All streams in the Crooked River and the Trout Creek subbasins: 6.5 to 9.0;

(c) Cascade lakes above 3,000 feet altitude: pH values may not fall outside the range of 6.0 to 8.5.

(2) Total Dissolved Solids. Guide concentrations listed below may not be exceeded unless otherwise specifically authorized by DEQ upon such conditions as it may deem necessary to carry out the general intent of this plan and to protect the beneficial uses set forth in OAR 340-041-0562: 500.0 mg/l.

(3) La Pine Aquifer.

(a) In order to protect the shallow aquifer located in the vicinity of the community of La Pine in Deschutes County for present and future use as a drinking water source, it is the policy of the Environmental Quality Commission to support the implementation of the La Pine Aquifer Management Plan adopted by the Deschutes County Board of Commissioners on September 28, 1982, by requiring the following:

(b) The waste water generated outside the core area of the community of La Pine but within the study area described in the La Pine Aquifer Management Plan, will be subjected to regulation under the Department's on-site waste disposal rules (OAR 340-071);

(A) The core area of the community of La Pine is that area defined as follows: Located in a portion of Sections 10, 11, 14, and 15, Township 22 South, Range 10 East, Willamette Meridian, Deschutes County, Oregon, more particularly described as follows: Beginning at the northwest corner of the intersection of U.S. Highway 97 and First Street (aka Reed Road); thence in a northeasterly direction along the westerly right-of-way line of said U.S. Highway 97 a distance of 1,480 feet, more or less, to the intersection of said U.S. Highway 97 and the northerly line of the south one-half of the southwest one-quarter of said Section 11; thence in a westerly direction along the northerly line of the south one-half of the southwest one-quarter of said Section 11 a distance of 1,950 feet, more or less, to the south one-sixteenth corner between said Sections 10 and 11; thence in a northerly direction along the section line between Sections 10 and 11, 990 feet, more or less, to the northeast corner of the south one-half of the north one-half of the northeast one-quarter of the southeast one-quarter of said Section 10 being the northeast corner of the Bend-La Pine School District property; thence in a westerly direction along the north line of the said south one-half of the north one-half of the northeast one-quarter of the southeast one-quarter, being the north line of the said Bend-La Pine School District property, 1,320 feet, more or less, to the northwest corner of the south one-half of the north one-half of the southeast one-quarter of the southeast one-quarter of said Section 10, said point further being the northwest

corner of the Bend-La Pine School District property; thence in a southerly direction along the westerly line of the east one-half of the southeast one-quarter of said Section 10, 2, 310 feet, more or less, to a point at the intersection of the westerly line of the southeast one-quarter of the southeast one-quarter of said Section 10 and the northerly right-of-way line of said First Street, said point further being the southwest corner of the Bend-La Pine School District property; thence in an easterly direction along the northerly right-of-way line of said First Street, 350 feet, more or less, to a point on the northerly right-of-way line of said First Street due north of the northwest corner of the alley in Block 16 of the Plat of La Pine Subdivision; thence in a southerly direction along the westerly side of said alley 550 feet, more or less, to a point along the southerly right-of-way of 2nd Street due south of the southwest corner of the alley in Block 16 of the Plat of La Pine Subdivision; thence in an easterly direction along the southerly right-of-way of 2nd Street, 390 feet, more or less, to the southwest corner of the intersection of Stillwell Street and 2nd Street; thence in a southerly direction along the westerly right-of-way line of said Stillwell Street, 950 feet, more or less, to the northwest corner of the intersection of said Stillwell Street and 4th Street; thence in a southerly direction along the west right-of-way line of Stillwell Street approximately 1,186 feet to the northwest corner of the intersection of Stillwell Street and Hill Street; thence in a southwesterly direction along the west right-of-way line of Hill Street approximately 340 feet to the intersection of the west line of Hill Street with the north line of 8th Street; thence westerly along the north line of 8th Street, 41 feet, more or less to the northeast corner of the intersection of 8th Street and Stearns Street; thence in a southerly direction along the east right-of-way line of Stearns Street approximately 387 feet to the northeast corner of the intersection of Stearns Street and 9th Street; thence in an easterly direction along the north right-of-way line of 9th Street and the easterly extension of the north line of said 9th Street, 1,093 feet to its intersection with the east right-of-way line of Pengra Huntington Road; thence in a northerly direction along the east right-of-way line of Pengra Huntington Road approximately 1,166 feet to the southwest corner of Lot 31, Government Homesite Tracts; thence in an easterly direction along the south boundary of said Lot 31 approximately 263 feet to the southeast corner of said Lot 31; thence in a northerly direction along the east boundary of said Lot 31 approximately 200 feet to the south right-of-way line of Finley Butte Road; thence in an easterly direction along the south right-of-way line of Finley Butte Road approximately 675 feet to the southeast corner of the intersection of Finley Butte Road and Bonnie Road; thence in a northerly direction along the east right-of-way line of Bonnie Road approximately 1,075 feet to the southeast corner of the intersection of Bonnie Road and William Foss Road; thence in an easterly direction along the southerly right-of-way line of said William Foss Road, 1,640 feet, more or less, to the north-south center section line of said Section 14 thence in a northerly direction along the north-south center line of said Section 14, 1,635 feet, more or less, to the north right-of-way line of said First Street (aka Reed Road); thence in a westerly direction along the north right-of-way line of said First Street, 1,432 feet, more or less, to the point of beginning;

(B) All dwellings and buildings that contain plumbing fixtures inside this core area boundary must eliminate the discharge of inadequately treated sewage, abandon existing on-site sewage disposal systems and connect to the regional sewerage facility. This must be done within 90 days following notification by the approved regional sewerage agency that sewer service is available.

(c) Waste disposal systems for new developments within the La Pine Aquifer Management Plan Boundary where development density exceeds two single family equivalent dwelling units per acre or which have an aggregate waste flow in excess of 5,000 gallons per day may only be

approved if a study is conducted by the applicant which convinces the department that the aquifer will not be unreasonably degraded.

(4) In addition to the requirements set forth in section (3) of this rule, the following actions are encouraged:

(a) Since the aquifer is presently degraded to the point where it does not meet Federal Drinking Water Standards, and the installation of sewer facilities will not immediately restore the quality to safe levels, Deschutes County should notify the citizens of the La Pine core area of the need to develop a safe drinking water supply for the community as soon as possible;

(b) Residents of the La Pine area are encouraged to test their drinking water frequently;

(c) Owners of underground liquid storage tanks are encouraged to periodically test the storage tanks to assure prompt detection and repair of leaks;

(d) Data on the quality of the shallow aquifer in and around La Pine should be obtained on a periodic basis to assess the effect of the above waste water management decisions on the quality of the groundwater.

(5) Minimum Design Criteria for Treatment and Control of Sewage Wastes:

(a) Metolius River Subbasin and Deschutes River Basin above Bend Diversion Dam (river mile 165): Treatment resulting in monthly average effluent concentrations not to exceed 5 mg/l of BOD and 5 mg/l of SS or equivalent control;

(b) Deschutes River from the Bend Diversion Dam (river mile 165) downstream to the Pelton Reregulating Dam (river mile 100) and for the Crooked River Subbasin:

(A) During periods of low stream flows (approximately April 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 10 mg/l of BOD and 10 mg/l of SS or equivalent control;

(B) During the period of high stream flows (approximately November 1 to March 31): A minimum of secondary treatment or equivalent and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

(c) Deschutes from the Pelton Reregulating Dam (river mile 100) downstream to the mouth:

(A) During periods of low stream flows (approximately April 1 to October 31): Treatment resulting in monthly average effluent concentrations not to exceed 20 mg/l of BOD and 20 mg/l of SS or equivalent control;

(B) During the period of high stream flows (approximately November 1 to March 31): A minimum of secondary treatment or equivalent and unless otherwise specifically authorized by the Department, operation of all waste treatment and control facilities at maximum practicable efficiency and effectiveness so as to minimize waste discharges to public waters.

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 17-2003, f. & cert. ef. 12-9-03

Chapter 340 Division 41
WATER QUALITY STANDARDS: BENEFICIAL USES, POLICIES, AND CRITERIA FOR OREGON

340-041-0101
Basin-Specific Criteria (Main Stem Columbia River): Beneficial Uses to Be Protected in the Main Stem Columbia River

(1) Water quality in the main stem Columbia River (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 101A (November 2003).

(2) Designated fish uses to be protected in the main stem Columbia River are shown in Table 101B (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0101: Table 101C.

(b) In addition to the salmonid spawning areas shown on Table 101C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(4) Coastal water contact recreation and shellfish harvesting use is to be protected in the portion of the main stem Columbia River designated for these uses in Figure 101A (August 2016).

[NOTE: View a PDF of Figures by clicking on "Tables" link below."

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0121
Basin-Specific Criteria (Main Stem Snake River): Beneficial Uses to Be Protected in the Main Stem Snake River

(1) Water quality in the main stem Snake River (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 121A (August 2005).

(2) Designated fish uses to be protected in the main stem Snake River are shown in Table 121B (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0121: Table 121C.

(b) In addition to the salmonid spawning areas shown on Table 121C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0130
Basin-Specific Criteria (Deschutes): Beneficial Uses to Be Protected in the Deschutes Basin

(1) Water quality in the Deschutes Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 130A (November 2003).

(2) Designated fish uses to be protected in the Deschutes Basin are shown in Figures 130A, 130B, 130C and 130D (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria apply to the salmonid spawning locations and times shown on OAR 340-041-0130: Figure 130D.

(b) In addition to the salmonid spawning areas shown on Figure 130D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available.

DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0140
Basin-Specific Criteria (Goose and Summer Lakes): Beneficial Uses to be Protected in Goose and Summer Lake Basins

(1) Water quality in the Goose and Summer Lake Basins (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 140A (November 2003).

(2) Designated fish uses to be protected in the Goose and Summer Lake Basins are shown in Figure 140 A, 140B, and 140C (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016 (1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0140: Figure 140C.

(b) In addition to the salmonid spawning areas shown on shown on Figure 140C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:

DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0151
Basin-Specific Criteria (Grande Ronde): Beneficial Uses to Be Protected in the Grande Ronde Basin

(1) Water quality in the Grande Ronde Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 151A (November 2003).

(2) Designated fish uses to be protected in the Grande Ronde Basin are shown in Figures 151A, 151B, 151C and 151D (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0151: Figure 151D.

(b) In addition to the salmonid spawning areas shown on Figure 151D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0160
Basin-Specific Criteria (Hood): Beneficial Uses to Be Protected in the Hood Basin

(1) Water quality in the Hood Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 160A (November 2003).

(2) Designated fish uses to be protected in the Hood Basin are shown in Figures 160A, 160B, 160C and 160D. (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0101: Figure 160D.

(b) In addition to the salmonid spawning areas shown on Figure 160D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0170
Basin-Specific Criteria (John Day): Beneficial Uses to Be Protected in the John Day Basin

(1) Water quality in the John Day Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 170A (November 2003).

(2) Designated fish uses to be protected in the John Day Basin are shown in Figures 170A, 170B, 170C and 170D (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on the following tables and figures in OAR 340-041-0170: Figure 170D.

(b) In addition to the salmonid spawning areas shown on Figure 170D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 12-2022, minor correction filed 08/09/2022, effective 08/09/2022
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0180
Basin-Specific Criteria (Klamath): Beneficial Uses to Be Protected in the Klamath Basin

(1) Water quality in the Klamath Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 180A (August 2005).

(2) Designated fish uses to be protected in the Klamath Basin are shown in Figures 180A, 180B, 180C and 180D (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0180 Figure 180D.

(b) In addition to the salmonid spawning areas shown on Figure 180D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0190
Basin-Specific Criteria (Malheur Lake): Beneficial Uses to Be Protected in the Malheur Lake Basin

(1) Water quality in the Malheur Lake Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 190A (November 2003).

(2) Designated fish uses to be protected in the Malheur Lake Basin are shown in Figures 190A, 190B, and 190C. (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0190: Figure 190C.

(b) In addition to the salmonid spawning areas shown on Figure 190C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0201
Basin-Specific Criteria (Malheur River): Beneficial Uses to Be Protected in the Malheur River Basin

(1) Water quality in the Malheur River Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 201A (August 2005).

(2) Designated fish uses to be protected in the Malheur River Basin are shown in Figures 201A, 201B and 201C (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on the following tables and figures in OAR 340-041-0201: Figure 201C.

(b) In addition to the salmonid spawning areas shown on Figure 201C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically

through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0220
Basin-Specific Criteria (Mid Coast Basin): Beneficial Uses to Be Protected in the Mid Coast Basin

(1) Water quality in the Mid Coast Basin (see Figure 1) may be managed to protect the designated beneficial uses shown in Table 220A (November 2003).

(2) Designated fish uses to be protected in the Mid Coast Basin are shown in Figures 220A, 220B, 220I and 220J (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on the following tables and figures in OAR 340-041-0220: Figure 220J.

(b) In addition to the salmonid spawning areas shown on Figure 220J, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(4) Coastal water contact recreation use is to be protected in all Mid Coast Basin marine waters and in coastal waters designated in Figures 220C through 220H (August 2016).

(5) Shellfish harvesting use is to be protected in all Mid Coast Basin marine waters and in coastal waters designated in Figures 220C through 220H (August 2016).

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0230
Basin-Specific Criteria (North Coast): Beneficial Uses to Be Protected in the North Coast Basin

(1) Water quality in the North Coast Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 230A (November 2003).

(2) Designated fish uses to be protected in the North Coast Basin are shown in Figures 230A, 230B, 230I and 230J (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0230: Figure 230J.

(b) In addition to the salmonid spawning areas shown on Figure 230J, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(4) Coastal water contact recreation use is to be protected in all North Coast Basin marine waters and in coastal waters designated in Figures 230C through 230H (August 2016).

(5) Shellfish harvesting use is to be protected in all North Coast Basin marine waters and in coastal waters as designated in Figures 230Cthrough 230H (August 2016).

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0250

Basin-Specific Criteria (Owyhee): Beneficial Uses to Be Protected in the Owyhee Basin

(1) Water quality in the Owyhee Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 250A (November 2003).

(2) Designated fish uses to be protected in the Owyhee Basin are shown in Figure 250A, 250B, and 250C (April 2023).

(3) For purposes of applying the salmonid spawning criteria for active resident trout spawning areas as defined in OAR 340-041-0016(1):

(a) Salmonid spawning use, including resident trout spawning is designated for the locations and times shown on OAR 340-041-0250: Figure 250C.

(b) In addition to the salmonid spawning areas shown on Figure 250C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas not found to be spawning habitat on a publicly available inventory until such time that the use determinations are incorporated into the designated use tables and maps in OAR 340-041. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing salmonid spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0260

Basin-Specific Criteria (Powder/Burnt): Beneficial Uses to Be Protected in the Powder/Burnt Basins

(1) Water quality in the Powder/Burnt Basins (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 260A (August 2005).

(2) Designated fish uses to be protected in the Powder/Burnt Basins are shown in Figure 260A, 260B, and 260C (April 2023).

(3) For purposes of applying the salmonid spawning criteria for active resident trout spawning areas as defined in OAR 340-041-0016(1):

(a) Salmonid spawning use, including resident trout spawning is designated for the locations and times shown on OAR 340-041-0260: Figure 260C.

(b) In addition to the salmonid spawning areas shown on Figure 260C, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas not found to be spawning habitat on a publicly available inventory until such time that the use determinations are incorporated into the designated use tables and maps in OAR 340-041. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing salmonid spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0271
Basin-Specific Criteria (Rogue): Beneficial Uses to Be Protected in the Rogue Basin

(1) Water quality in the Rogue Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 271A (November 2003).

(2) Designated fish uses to be protected in the Rogue Basin are shown in Figures 271A, 271B, 271C and 271D (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0271: Figures 271D.

(b) In addition to the salmonid spawning areas shown on Figure 271D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0286
Basin-Specific Criteria (Sandy Basin): Beneficial Uses to Be Protected in the Sandy Basin

(1) Water quality in the Sandy Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 286A (November 2003).

(2) Designated fish uses to be protected in the Sandy Basin are shown in Figures 286A, ~~and~~ 286B, 286C and 286D (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0286A: Figure 286D.

(b) In addition to the salmonid spawning areas shown on Figure 286D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0300
Basin-Specific Criteria (South Coast): Beneficial Uses to Be Protected in the South Coast Basin

(1) Water quality in the South Coast Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 300A (November 2003).

(2) Designated fish uses to be protected in the South Coast Basin are shown in Figures 300A, 300B, 300E and 300F (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0300: Figure 300F.

(b) In addition to the salmonid spawning areas shown on Figure 300F, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(4) Coastal water contact recreation use is to be protected in all South Coast Basin marine waters and in coastal waters designated in Figures 300C and 300D (August 2016).

(5) Shellfish harvesting use is to be protected in all South Coast Basin marine waters and in coastal waters as designated in Figures 300C and 300D (August 2016)

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0310
Basin-Specific Criteria (Umatilla): Beneficial Uses to Be Protected in the Umatilla Basin

(1) Water quality in the Umatilla Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 310A (January 2015).

(2) Designated fish uses to be protected in the Umatilla Basin are shown in Figures 310A, 310B, 310C and 310D (April 2023, except as noted in Table 310A).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0310: Figures 310D.

(b) In addition to the salmonid spawning areas shown on Figures 310D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 1-2015, f. & cert. ef. 1-7-15
DEQ 3-2012, f. & cert. ef. 5-21-12
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0320
Basin-Specific Criteria (Umpqua Basin): Beneficial Uses to Be Protected in the Umpqua Basin

(1) Water quality in the Umpqua Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 320A (November 2003).

(2) Designated fish uses to be protected in the Umpqua Basin are shown in Figures 320A, 320B, 320D and 320E (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-01320:Figure 320E.

(b) In addition to the salmonid spawning areas shown on Figures 320E, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

(4) Coastal water contact recreation use is to be protected in all marine waters adjacent to the Umpqua River and in coastal waters designated in Figure 320C (August 2016).

(5) Shellfish harvesting use is to be protected in all marine waters adjacent to the Umpqua River and in coastal waters as designated in Figure 320C (August 2016).

[NOTE: View a PDF of referenced Tables and Figures by clicking on the "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 7-2018, minor correction filed 02/14/2018, effective 02/14/2018
DEQ 32-2017, minor correction filed 11/30/2017, effective 11/30/2017
DEQ 9-2016, f. & cert. ef. 8-18-16
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0330
Basin-Specific Criteria (Walla Walla): Beneficial Uses to Be Protected in the Walla Walla Basin

(1) Water quality in the Walla Walla Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 330A (November 2003).

(2) Designated fish uses to be protected in the Walla Walla Basin are shown in Figures 310A, 310B, 310C and 310D (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on OAR 340-041-0330: Figure 310D.

(b) In addition to the salmonid spawning areas shown on Figures 310D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 17-2003, f. & cert. ef. 12-9-03

340-041-0340
Basin-Specific Criteria (Willamette): Beneficial Uses to Be Protected in the Willamette Basin

(1) Water quality in the Willamette Basin (see Figure 1) must be managed to protect the designated beneficial uses shown in Table 340A (August 2005).

(2) Designated fish uses to be protected in the Willamette Basin are shown in Figures 340A, 340B, 340C and 340D (April 2023).

(3) For purpose of protecting active resident trout spawning areas, as required by OAR 340-041-0016(1):

(a) The dissolved oxygen spawning criteria will apply to the salmonid spawning locations and times shown on the following tables and figures in OAR 340-041-0340: Figure 340D.

(b) In addition to the salmonid spawning areas shown on Figure 340D, DEQ will determine where additional active spawning areas used by resident trout occur as data becomes available. DEQ will identify additional spawning habitat and areas determined to be active resident trout spawning areas in a publicly available inventory. The determinations recorded in the inventory will be incorporated into the designated use tables and maps in OAR 340-041 periodically through rulemaking. When resident trout spawning is determined to be an existing use based on the best available data and is added to the resident trout spawning inventory, DEQ will apply the spawning criteria for dissolved oxygen to protect the existing trout spawning use.

[NOTE: View a PDF of Figures and Tables by clicking on "Tables" link below.]

[ED. NOTE: To view attachments referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 468.020, 468B.030, 468B.035 & 468B.048
Statutes/Other Implemented: ORS 468B.030, 468B.035 & 468B.048
History:
DEQ 5-2020, minor correction filed 02/03/2020, effective 02/03/2020
DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
DEQ 2-2007, f. & cert. ef. 3-15-07
DEQ 17-2003, f. & cert. ef. 12-9-03