

Date: July 20, 2023

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Item K: Status Report on Rulemaking for Temperature TMDL Replacement Project: Lower Columbia-Sandy Subbasin and Willamette Subbasins (Informational)
July 20, 2023, EQC meeting

Purpose of item DEQ will provide an overview on the development and rule process for the Temperature Total Maximum Daily Load Replacement Projects for the Lower Columbia-Sandy Subbasin and Willamette Subbasins.

Background DEQ is developing the draft Total Maximum Daily Loads and Water Quality Management Plans for the Lower Columbia-Sandy Subbasin and Willamette Subbasins to address temperature impairments. The TMDLs and WQMPs will be proposed for adoption by Oregon’s Environmental Quality Commission, by reference, into the TMDL regulations at OAR 340-042-0090. The Environmental Protection Agency is required under the court order for these TMDLs to approve or disapprove the TMDL by Jan. 15, 2024, following EQC rule adoption.

DEQ and EPA are under a court order to update and replace 15 temperature TMDLs to be consistent with the current temperature standards. These TMDLs must be updated because they were based, in part on the Natural Conditions Criterion, a section of the temperature standard that was subject to litigation and has since been disapproved by EPA. The court order identifies the schedule for EPA approval or disapproval of the replacement TMDL. These two temperature TMDLs are the first two of the 15 temperature TMDLs under court order to be updated and replaced. While these temperature TMDLs were discussed briefly with the EQC in April and May 2022 and in March 2023, this is the first information item devoted to these temperature TMDLs.

Key issues	<p>DEQ will present information on the Temperature TMDL updates to meet the terms of the court order to update and replace the TMDLs based on the current temperature water quality standard. The presentation to the commission will summarize the work that has been done to date and preview the remaining steps, including the following:</p> <ul style="list-style-type: none">• Work to revise these TMDLs based on updated source and water quality information and associated changes to the allocation of the Human Use Allowance;• Requirements for Designated Management Agencies and responsible persons to submit TMDL implementation plans, including Oregon Department of Agriculture, Oregon Department of Forestry, U.S. Forest Service, and Bureau of Land Management;• Highlights of work done to develop shade gap maps for some areas and their use by DMAs for prioritization of restoration or complete a shade assessment where shade gap maps are not available;• Updates on the rulemaking and public processes.• Summary of topics discussed during engagement with the community, DMAs, and the rule advisory committee including the draft fiscal and economic impact statement, environmental justice considerations, and racial equity information; and• Summary of key policy issues that are being considered as part of the TMDL and WQMP development for the commission’s awareness.
Next steps	<p>DEQ will continue to develop the temperature TMDLs and provide any additional information the commission may request.</p>
EQC involvement	<p>There is no request for EQC action as part of this agenda item. DEQ plans to bring proposed rule amendments for action at the EQC meeting in November 2023.</p>
Supporting materials	<p>Rulemaking Advisory Committee membership, meeting summaries and additional information is available on the rulemaking websites:</p> <p><u>Lower Columbia-Sandy Subbasin</u> <u>Willamette Subbasins</u></p>

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