

State of Oregon  
Department of Environmental Quality

Memorandum

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**Date:** March 6, 2014

**To:** Environmental Quality Commission

**From:** Dick Pedersen, DEQ director

**Subject:** Agenda item J, Informational item: Water quality regulation on forestlands, temperature water quality standards and Mid-Coast Total Maximum Daily Load development  
Mar. 19-20, 2014, EQC meeting

**Why this is important** Oregon statutes create a unique cooperative relationship between the Oregon Board of Forestry and the Oregon Environmental Quality Commission to ensure water quality protection on forestland. Essentially, the commission sets water quality standards, and the board ensures forest practices meet these standards on state and private forestlands.

DEQ staff will present a review of water quality regulation on forestlands, including roles and responsibilities of the Environmental Quality Commission, the Board of Forestry, DEQ and Oregon Department of Forestry. Staff will inform the commission of the history and structure of the current water quality standard for temperature, discuss the relationship with the ongoing forest practices rulemaking and give a status update with regard to litigation. Staff will also update the commission on the development of TMDLs for the mid-coast basin.

**Background** Over the past 13 years, ODF, DEQ, the Board of Forestry and EQC have cooperated when reviewing Oregon's forest practices rules and best management practices to ensure an adequate level of protection for water quality and aquatic and riparian habitats. This review initially focused on 18 water protection rule concepts, which incorporated recommendations from a number of scientific reviews. The Board of Forestry completed its review process in April 2009 for these rule concepts, developing a number of new and revised forest practices rules, as well as new and revised voluntary measures under the Oregon Plan for Salmon and Watersheds.

ODF and DEQ continue to cooperate on policy, regulatory, research and monitoring efforts to ensure continuous review and improvement of water quality protection. The Forest Practices Act specifically identifies three priority rule divisions for monitoring: water protection, landslides and public safety and chemicals. These are consistent with

DEQ's priorities for nonpoint sources of pollution. The Riparian Function and Stream Temperature monitoring project, known as RipStream, focuses on the effectiveness of rules and best management practices. These practices protect stream temperature and promote riparian structure, such as woody debris and downed logs, which provide necessary functions for the protection of fish and wildlife habitat in small and medium size fish-bearing streams in the Coast Range. The RipStream project demonstrated that current riparian protections on these streams in private forestlands are not adequate to ensure attainment of the temperature standard; however, riparian protections on state forestlands are adequate for temperature. Ongoing paired watershed studies and other academic and industry research can help further evaluate the environmental effects on water and fish of contemporary forest management practices now in use on intensively managed forests.

Lawsuits, often due to citizen concerns about water quality on forestlands in the past several years, have increased the scrutiny with which water quality regulations are faced. DEQ recognizes and works within this litigation framework as it develops standards and regulations for water quality in Oregon.

**Legal  
authorities and  
responsibilities**

The commission is responsible for implementation of the federal Clean Water Act and state law ORS 468B, which includes approval of rules including water quality standards, Oregon's water quality permitting system, Nonpoint Source Program under Section 319 of the Clean Water Act, overseeing water quality-limited waterbodies, and watershed management plans known as Total Maximum Daily Loads.

The Board of Forestry is charged with the responsibility to "supervise all matters of forest policy and management under the jurisdiction of the state ..." (ORS 526.016). The Forest Practices Act gives the Board of Forestry exclusive authority to adopt and enforce rules governing forest practices. The Oregon Forest Practices Act requires the Board to regulate nonpoint source discharges from forest operations on forestlands (ORS 527.765)

**Next steps**

DEQ will provide updates on these issues as the commission's request and discretion, and in coordination with the Department and Board of Forestry.

**Attachments**

- A. *Regulation of Water Quality and Forest Practices*. Briefing for the Oregon Board of Forestry, Sept. 7, 2004. Ian Whitlock, Senior Assistant Attorney General and Larry Knudsen, Senior Assistant

Attorney General

- B. *Temperature Standards: Natural Conditions Criteria*. Questions and answers document. Aug. 8, 2013. Oregon Department of Environmental Quality

Approved: \_\_\_\_\_  
Division: Environmental Solutions

Approved: \_\_\_\_\_  
Section: Watershed management

Report prepared by Josh Seeds