

Notice of Proposed Rulemaking

Sept. 14, 2026

Snake River Temperature TMDL

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Introduction

The Oregon Department of Environmental Quality invites public input on proposed permanent rule amendments to chapter 340 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' potential economic impact on business.

Overview

Consistent with Oregon Revised Statute 468B.110 and OAR chapter 340 division 42, DEQ proposes the draft Total Maximum Daily Load and Water Quality Management Plan for the Snake River to address temperature impairments. Following public comment, the TMDL and WQMP will be proposed for adoption by Oregon's Environmental Quality Commission, by reference, into OAR 340-042-0090. The U.S. Environmental Protection Agency will review the TMDL by Dec. 4, 2028, after the commission adopts the rule.

DEQ is under a court order to update and replace this temperature TMDL to be consistent with the current temperature standards. This TMDL must be updated because it was 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. This temperature TMDL replacement for the Snake River replaces the temperature portion of the current Snake River-Hells Canyon 2004 TMDL to be consistent with the current temperature standards.

The federal Clean Water Act and implementing regulations require Oregon to biennially submit for U.S. Environmental Protection Agency approval a list of all impaired waterways in the state. The act also requires Oregon to establish TMDLs for pollutants in waters listed as impaired. The biennial list submittal must include a priority ranking of TMDL development and identify waters targeted for TMDL development within the next two years.

Procedural summary

More information

Information about this rulemaking is on this rulemaking's webpage: [Department of Environmental Quality : Snake River Temperature TMDL : Rulemaking at DEQ : State of Oregon](#).

Public hearings

DEQ plans to hold one public hearing. Anyone can attend the hearing by webinar or teleconference.

Temperature TMDL Replacement: Snake River public hearing

Date: Monday Oct. 19, 2026

Start time: 5 p.m.

Join via Zoom

Click on the link above or copy paste to your browser: <https://deq-oregon-gov.zoom.us/j/85130553138>

Join by phone:

Call-in number: 1 669 444 9171

Meeting ID: 851 3055 3138

[Click here for instructions on how to join webinar or teleconference.](#)

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, mail or at the public hearing.

Email: Send comments by email to: SnakeHells.TemperatureTMDL@DEQ.oregon.gov

Postal mail: Oregon DEQ, Attn: Amanda Ondrick, 475 NE Bellevue Dr #110, Bend, OR 97701

At public hearing: 5 p.m., Monday, Oct. 19, 2026

Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by **4 p.m., on Oct. 29, 2026.**

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 [GovDelivery](#)
- Signing up on the rulemaking website: [Department of Environmental Quality : Snake River Temperature TMDL : Rulemaking at DEQ : State of Oregon](#)

What will happen next?

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

Proposed rules only become effective if the Environmental Quality Commission adopts them. DEQ's intended action is to present the proposed rule changes to the commission as soon as possible after the earliest date on which the rule changes could take effect. DEQ intends to submit the proposed rule changes to the commission on or after Nov. 3, 2026.

Statement of need

What need would the proposed rule address?

In 2013, the United States Environmental Protection Agency disapproved the Natural Conditions Criterion contained in Oregon's water quality standard for temperature due to the 2012 U.S. District Court decision for NWEA v. EPA, 855 F. Supp. 2d 1199 (D. Or., 2012). This portion of the temperature water quality standard was used in most temperature TMDLs issued from 2003 through 2012. On Oct. 4, 2019, the U.S. District Court issued a judgment for NWEA v. EPA, No. 3:12-cv-01751-HZ (D. Or., Oct. 4, 2019) and required DEQ and USEPA to replace 15 Oregon temperature TMDLs that were based on the Natural Conditions Criterion and to reissue the temperature TMDLs based on the remaining elements of the temperature water quality standard. This temperature TMDL replacement for the Snake River is one of the required TMDLs to be replaced for temperature.

How would the proposed rule address the need?

The proposed rule would meet the requirements of temperature replacement according to the court order.

How will DEQ know the rule addressed the need?

The rule will be adopted by the Environmental Quality Commission and DEQ would submit the TMDL to U.S. Environmental Protection Agency for approval or disapproval by Dec. 4, 2028.

Federal relationship

ORS 183.332, 468B.110 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 130.7(c). Under the federal Clean Water Act, the state is required to establish TMDLs for water quality limited segments of waterways listed on the submittal required by Clean Water Act Section 303(d).

Rules affected, authorities, supporting documents

Lead division

Water Quality

Program or activity

Watershed management

Chapter 340 action

Amend – 340-042-0090

Statutory authority - ORS

468.020

468.065

468B.020

468B.030

468B.035

Statutes implemented - ORS

468B.020

468B.110

Documents relied on for rulemaking

Document title	Document location
DEQ's Oregon Administrative Rules 340-042-0080 Implementing a Total Maximum Daily Load	Oregon Secretary of State Administrative Rules
Snake River Temperature TMDL Replacement rulemaking webpage	Department of Environmental Quality : Snake River Temperature TMDL : Rulemaking at DEQ : State of Oregon

Rules summary

As OAR 166-500-0030(1)(e) requires, the following are included to provide a brief summary of the proposed new rules and existing rules affected by this rulemaking.

OAR chapter 340, division 42

Rule Number	Rule Title	Explanation
340-042-0090	Total Maximum Daily Loads and Water Quality Management Plans	The rule is being amended to include the Snake River

Fee analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and economic impact

The federal Clean Water Act requires states, or EPA, to develop a TMDL for each water body on the state's polluted waters list, also known as the 303(d) list. The TMDL process is one strategy used to clean up polluted waters. Issuance and subsequent implementation for the proposed TMDL and WQMP may have fiscal or economic impacts on businesses, farms and ranches, forestlands, and federal, state, county, and city lands or operations adjacent to the Snake River. DEQ is not able to quantify costs, but generally the costs of meeting the biologically based water quality criteria for temperature, and associated TMDL allocations, may be minimal for those responsible persons, including Designated Management Agencies. New requirements in the WQMP that existing DMAs have not previously implemented may result in additional costs. New DMAs that are required to develop plans will incur costs to develop and implement a plan, and administrative costs associated with reporting on implementation progress.

This fiscal impact statement does not quantify the costs of ongoing water quality impairment to beneficial uses of waters of the state, nor the potential economic or ecosystem service benefits of improving water quality and attaining beneficial uses. Implementation of these TMDLs is intended to address water pollution, as required by the relevant sections of the federal Clean Water Act. The negative economic and ecological impacts of water pollution potentially affect all those who live, work, and recreate within the watershed, as well as those downstream, including commercial, recreational and subsistence fishing communities. The externalized costs of thermal pollution in water may disproportionately negatively affect poor, rural, indigenous and minority communities in Oregon.

Direct economic costs of TMDL implementation associated with load allocations are mostly borne by those entities contributing pollutants to waterways. These entities may reduce their costs by choosing pollutant control or reduction strategies or options that align with their circumstance or business needs and utilizing grant funding opportunities. The potential economic and ecosystem service benefits of improved water quality and beneficial use access may be realized by all those who live, work, and recreate within and downstream of the Snake River Basin.

The Snake River Temperature TMDL applies to individual and general permit holders. The degree to which these permits are affected by this TMDL will depend on whether they can meet waste load allocations for temperature.

Statement of cost of compliance

Costs of compliance with this TMDL rule can include implementation and administrative costs. DEQ does not have specific information for potentially affected operations within the watershed to determine economic impacts to landowners, public agencies, or business operators. DEQ expects costs of compliance to vary for one or more of the following reasons:

- Whether the responsible person, including DMAs are already implementing a temperature TMDL, or they are a new DMA.
- Strategies may already be in place in some locations that prevent or reduce exceedances of temperature water quality standards.

- Costs vary to implement different temperature control strategies in the WQMP.
- Multiple temperature pollution controls may be needed at some locations.
- The presence of buildings or transportation infrastructure may preclude the ability to implement temperature control strategies in some locations.
- DEQ does not have information to determine all potential sources or what actions are currently occurring that could be modified or enhanced to prevent exceedances of temperature criteria.
- Temperature load allocations are calculated by source sector, not by individual property or activity.
- A range of organizational capacity and funding exists for implementation plan development and there are varying levels of complexity needed in plans.

Based on data from the Oregon Watershed Restoration Inventory, recent project budgets in the Snake River Basin typically ranged from \$8,000 to \$35,000 per acre for riparian restoration. Projects at the lower end of this range include basic planting, limited fencing and minimal infrastructure. Projects in the middle of this range often include moderate site preparation, invasive species control, fencing, planting, and some engineered features like hardened crossing or livestock watering systems. Projects at the higher end of this range generally include more intensive restoration with high planting densities, complex site conditions, engineered infrastructure, and multi-year maintenance commitments.

The fiscal impact of the new waste load allocations on point source discharge will be variable. In the event the WLA becomes more stringent, the point source may incur additional capital improvement or other costs necessary to achieve compliance with the new WLA.

Where investments are necessary to meet TMDL implementation requirements, DEQ identifies funding resources in the WQMP and online that include, but are not limited to, state and federal grants (including Oregon Watershed Enhancement Board and Clean Water Act Section 319 nonpoint source implementation grants) and below-market interest rate loans (that can include principal forgiveness) through the DEQ Clean Water State Revolving Fund program. Other state and federal opportunities are provided on [DEQ's Water Quality Funding Resource web page](#).

- [EPA's funding resources for watershed protection and restoration webpage](#)
- [EPA's Clean Water State Revolving Fund Best Practices Guide for Financing Nonpoint Source Solutions](#)

Federal agencies

The proposed rule will have an impact on some federal agencies named as DMAs in the TMDL. These agencies may incur costs to comply with DEQ's Clean Water Act requirements, including revising existing TMDL implementation plans or developing new ones, along with related administrative expenses. DEQ does not know the exact costs for reasons described above. The following federal agencies will need to develop or revise a TMDL implementation plan.

U.S. Bureau of Land Management is responsible for developing plans for management strategies and implementing practices to achieve nonpoint source pollutant load allocations on forest, range, and other land types managed by the BLM. BLM management areas make up approximately 13.5 percent of the land area adjacent to the Snake River. BLM will likely incur costs to implement temperature-related management strategies, administrative costs for

development and periodic review of a TMDL implementation plan. In addition, DEQ is proposing to require the BLM to participate in stream monitoring as part of the monitoring strategy described in the WQMP. It is unknown what those costs will be, but potential costs incurred may be alleviated depending on whether existing BLM monitoring sites are compatible with future monitoring needs.

U.S. Forest Service is responsible for developing plans for management strategies and implementing practices to achieve nonpoint source pollutant load allocations on forest and other land types managed by the USFS. USFS management areas make up approximately 32.5 percent of the land area adjacent to the Snake River. The U.S. Forest Service will likely incur costs to implement temperature-related management strategies, administrative costs for development and periodic review of a TMDL implementation plan. In addition, DEQ is proposing to require the U.S. Forest Service to participate in stream monitoring as part of the monitoring strategy described in the WQMP. It is unknown what those costs will be, but potential costs incurred may be alleviated depending on whether existing U.S. Forest Service monitoring sites are compatible with future monitoring needs.

State agencies

Under the proposed rule, some state agencies will be assigned responsibility for developing TMDL implementation plans and implementing management strategies to achieve cumulative pollutant load reductions, specified in the draft TMDL and WQMP. Except for DEQ, the following state agencies will need to develop or revise a TMDL implementation plan.

Oregon Department of Environmental Quality implements pollutant waste load allocations through National Pollutant Discharge Elimination System permits. The proposed rule will have an impact on DEQ through ongoing work to ensure elements of the TMDL are adopted into regulatory documents such as permits or TMDL implementation plans to achieve water quality standards and to ensure permits and plans are implemented. Because allocations are applied in permits upon evaluation for renewal or new applications, this does not represent additional fiscal impact to DEQ for the draft TMDL implementation.

Oregon Department of Agriculture will be responsible for developing management plans for implementation of practices to achieve nonpoint source pollutant load allocations, meet water quality standards on private lands for agricultural activities within the watershed, annual reporting, and participation in monitoring and periodic progress reviews. ODA management areas make up approximately 29.5 percent of the land area within the watershed adjacent to the Snake River. ODA state statutes and rules are a mix of existing regulatory programs and voluntary measures used for implementation to improve or protect water quality and land conditions on agricultural lands or related to agricultural activities. ODA does this work in partnership with local Soil and Water Conservation Districts. ODA will likely incur costs to implement temperature-related management strategies as well as administrative costs for the development and periodic review of a TMDL implementation plan. In addition, DEQ is proposing to require ODA to participate in stream monitoring as part of the monitoring strategy described in the WQMP. It is unknown what those costs will be at this time. Potential costs incurred may be alleviated depending on whether existing ODA supported monitoring sites representing private agriculture are compatible with future monitoring needs. Financial incentives and technical assistance programs are available to assist private landowners. Grant and low interest loan funding is available to ODA, Soil and Water Conservation Districts, and individual landowners or operators to support implementation of assessment, pollution controls, and

watershed restoration actions or land condition improvements that may be necessary to meet TMDL requirements.

Oregon Department of Transportation is responsible for implementing practices to achieve pollutant allocations related to highways within the watershed. ODOT is required to comply with its DEQ-issued Municipal Stormwater Permit, including development of a statewide TMDL implementation plan. ODOT will likely incur costs to implement temperature-related management strategies as well as administrative costs for development and periodic review of a TMDL implementation plan. The plan must include practices to achieve Snake River temperature TMDL allocations related to nonpoint sources of excess solar radiation.

Oregon Parks and Recreation Department is responsible for implementing practices to achieve pollutant allocations related to state park lands within the project area. Administrative costs for managing state park lands are not dependent on TMDLs, but OPRD will likely incur costs to implement temperature-related management strategies and administrative costs for development and periodic review of a TMDL implementation plan.

Oregon Department of Fish and Wildlife is responsible for implementing practices to achieve pollutant allocations related to lands managed by ODFW within the project area. ODFW will likely incur costs to implement temperature-related management strategies as well as administrative costs for development and periodic review of a TMDL implementation plan.

Local governments

There are four cities and counties in the Snake River project area that are named in the draft proposed WQMP as DMAs. A list of the cities, counties, and public utilities can be found in the draft proposed WQMP in Section 5. These four local government DMAs will likely incur costs to implement temperature-related management strategies as well as administrative costs for development and periodic review of a TMDL implementation plan.

Financial incentives and technical assistance programs are available to assist local governments and private landowners within cities and counties. Grants or low interest loan funding are available to support implementation of assessment, pollution controls and watershed restoration actions or landscape improvements that may be necessary to meet TMDL requirements.

Public

The proposed rule does not have direct costs to the public. There may be indirect costs to the public if DMAs, such as cities or counties, pass on implementation costs to the public through increased fees or taxes. The TMDL replacement for temperature will provide a positive indirect impact with potential economic benefits to the public who live, work, and recreate in the watershed. The positive impacts will also expand the ecological benefits of the natural resources in the Snake River Basin. Threatened native populations of Chinook salmon, steelhead trout and bull trout, as well as redband trout, white sturgeon, and other aquatic life are culturally and economically significant to the basin. Elevated stream temperatures are a factor in their decline.

The proposed rule supports the Oregon Plan for Salmon and Watersheds mission: “Restoring our native fish populations and the aquatic systems that support them to productive and sustainable levels that will provide substantial environmental, cultural, and economic benefits.” The Oregon Plan is a comprehensive partnership between government, communities, private landowners, industry, and citizens funded by the Oregon Legislature. Efforts under the Oregon Plan include regulatory and non-regulatory programs designed to restore native salmon runs, improve water quality, and maintain healthy watersheds and human communities throughout Oregon.

In 2019, local recreationists and visitors spent \$516 million in the Northeastern Oregon Tourism Region. Outdoor recreation spending includes recreational trips, gear, apparel, equipment, and repair. Consumer spending supports businesses and jobs throughout the state. The statewide economic contribution of recreational anglers to Oregon’s economy as of 2018 was \$1.5 billion, supporting 13,120 jobs. It was estimated that 569,600 Oregon recreational anglers spent \$871.8 million in 2018. Snake River Basin communities may experience a positive cultural and economic impact due to the proposed rule. The proposed rule may have a positive economic impact on income from recreational anglers and the public.

Large businesses - businesses with more than 50 employees

DEQ evaluated available data from the Oregon Employment Department (2022) and identified large businesses that operate within the basin are varied, and include, among others, universities, multinational corporations, and agricultural and timber related businesses. The proposed rule change could impose costs associated with achieving required reductions in pollutant contributions to waterways from the lands or operations of businesses within riparian areas related to the agriculture and forestry sectors. Specifically, the rule may result in unknown additional costs to approximately three large agricultural businesses and one large utility due to proximity to riparian areas.

Small businesses – businesses with 50 or fewer employees

DEQ searched the Oregon Employment Department database (2022) list of all businesses registered in Oregon. Small businesses within the three counties included in this proposed TMDL were filtered using North American Industry Classification System codes.

The proposed rule could impose costs associated with achieving required reductions in pollutant contributions to waterways from approximately 176 small agricultural and 16 timber-related businesses, if they are determined to be located within riparian areas. Some small woodlands owners, which are not identified as small businesses in OED’s database of businesses in Oregon, within riparian areas could also have costs imposed. The proposed rule is unlikely to result in costs to approximately 1576 small businesses that are unrelated to agriculture and forestry.

The proposed rule could have a beneficial impact on small businesses. If hydropower facilities modify operations to meet TMDL allocations this may result in changes to current water level fluctuations which may positively benefit small businesses that rely on the reservoirs for recreation and tourism. Additionally, improvements to water quality through basin wide implementation may achieve this net positive benefit to small businesses in the area. Current water quality conditions and water level fluctuations in the reservoirs have been described by

local governments as having a negative impact on local business. The proposed rule hopes to improve these conditions.

Although the proposed rule does not place specific requirements on small businesses in aggregate, the proposed rule identifies management strategies and practices for the agricultural sector that are necessary to reduce pollutant loads. These activities may require changes in certain management practices or improvements in land conditions that could result in capital costs for small landowners. The Oregon Department of Agriculture has current rules in place that involve a mix of regulatory and voluntary practices by agricultural landowners to protect or improve water quality. Compliance costs for landowners implementing ODA rules are generally not dependent on TMDLs, because landowners must implement existing ODA water quality rules.

Grant and low interest loan funding are available to support implementation of pollution controls and watershed restoration actions required for compliance with TMDL requirements. The U.S. Dept. of Agriculture, Natural Resources Conservation Service offers a variety of programs to help farmers, ranchers, family forests, Tribes and conservation partners perform voluntary conservation on private lands funded through the Farm Bill. Small rural landowners and agricultural operators are eligible for NRCS Financial Assistance, grant and cost-share programs through, including Environmental Quality Incentives Program, Conservation Innovation Grants, Voluntary Public Access and Habitat Incentives Program, Voluntary Conservation Stewardship Program, Regional Conservation Partnership Program, Conservation Easements, and Agricultural Conservation Easements Program. The Oregon Watershed Enhancement Board offers multiple grant types.

Minority Owned Businesses

DEQ searched the Oregon Certification Office for Business Inclusion and Diversity Certified Vendor Directory for all businesses currently certified as a Minority Business Enterprise. Businesses were selected from the three counties included in the Snake River project area and filtered based on NAICs codes to identify those related to agriculture.

There are no minority business enterprises identified as certified with COBID within the Snake River project area.

Resources outlined for large and small businesses above may also be utilized by Minority Business Enterprises. Additionally, the Oregon Association of Minority Entrepreneurs provides technical assistance, microlending/ access to capital, marketing, networking and business incubation for minority business enterprises among other resources.

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.

The number of registered small businesses in the Snake River area (including Baker, Malheur, and Wallowa counties) is 1,768 (OED, 2022). Small businesses may or may not be regulated by DMAs that are federal, state, or local government agencies that have legal authority over a

sector or source contributing pollutants, identified by DEQ in the TMDL. The number of small businesses that are regulated by DMAs can vary over time.

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

The proposed rule does not place specific administrative activities or requirements on most small businesses because implementation plan development and annual reporting responsibilities are assigned to responsible persons, including DMAs. Therefore, DEQ does not anticipate any significant costs to small businesses.

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

Although the proposed rule does not place specific requirements on small businesses in aggregate, the proposed rule identifies management strategies and practices for the agricultural sector that are necessary to reduce pollutant loads. These activities may require changes in certain management practices or improvements in land conditions that could result in costs to small agricultural operations. Although compliance costs for implementing ODA rules are not dependent on TMDLs, addressing the proposed TMDL requirements may require additional supplies, labor, or administration for these businesses, including those that provide in-kind match to publicly funded restoration grants.

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

DEQ provided notification of this rulemaking using the state opt-in email delivery system called GovDelivery. Small businesses that have signed up to receive DEQ notifications have been made aware of the proposed rule and informational webinar opportunities to ask questions and learn about the proposed rule. DEQ will solicit feedback and information from the Rule Advisory Committee regarding potential fiscal impacts to small businesses.

Documents relied on for fiscal and economic impact

The requirement to list the documents relied on to determine fiscal impact is separate from and in addition to the similar list in the Rules affected, authorities, supporting documents section above.

Document title	Document location
DEQ's Oregon Administrative Rules 340-042-0080 Implementing a Total Maximum Daily Load	https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1459
Oregon Employment Department public records	https://www.oregon.gov/employ/newsandmedia/pages/request-public-record.aspx

Oregon Employment Department Small Business database (2022)	https://www.oregon.gov/employ/Pages/default.aspx
Private Forest Accord Report (2022)	https://www.oregon.gov/odf/Pages/private-forest-accord.aspx
U.S. Census Bureau – 2020 Census – Census Tract Reference Map	https://www.census.gov/geographies/reference-maps/2020/geo/2020pl-maps/2020-census-tract.html
Oregon Certification Office for Business Inclusion and Diversity	https://oregon4biz.diversitysoftware.com/FrontEnd/searchcertifieddirectory.asp
Oregon Plan for Salmon and Watersheds Resources	https://www.oregon.gov/oweb/resources/pages/opsw.aspx
Oregon Outdoor Recreation Economic Impact Study	https://industry.traveloregon.com/research/oregon-outdoor-recreation-economic-impact-study/
Oregon Commercial and Recreational Fishing Industry Economic Activity Coastwide and in Proximity to Marine Reserve Sites for Years 2018 and 2019	Microsoft Word - TRG ec summary Oregon commercial fishing industry 2018-2019.docx
North American Industry Classification System (NAICS) codes	https://www.census.gov/naics/
U.S. Census Bureau QuickFacts	https://www.census.gov/programs-surveys/sis/resources/data-tools/quickfacts.html
DEQ Rulemaking webpage for the Snake River Temperature TMDL	https://www.oregon.gov/deq/rulemaking/Pages/snakeTMDL.aspx

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 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 its findings are stated in the [approved minutes dated Feb. 4, 2026](#).

The committee was also provided two weeks after the rule advisory committee meetings to give input to DEQ in writing or otherwise. Two committee members submitted comments related to the fiscal impact of the TMDL.

One committee member pointed out that there were several “unknown costs” which they challenged as inadequate. This committee member also requested further description on what will be required for a monitoring plan. This was requested to better understand the costs that would be associated with this requirement.

Another committee member reports that water level fluctuations on the Powder arm of Brownlee Reservoir currently have deleterious effects on local businesses, recreational opportunities, and local fisheries. They note that the proposed TMDL rule may not directly change dam management, however, improved communication and a collaborative approach among agencies could reduce environmental and fiscal impacts. This committee member stated that entities likely to be affected include state, federal, and local governments; Idaho Power; agricultural producers; private landowners; and businesses adjacent to, or providing services, on the river. This committee member concludes that while long-term ecological improvements could lead to positive fiscal outcomes, short-term costs and limited management options may create interim economic challenges.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rule would affect the development cost of a 6,000-square-foot parcel and construction of a 1,200-squarefoot detached, single-family dwelling on that parcel. DEQ determined the proposed rule would most likely not affect development costs. If DMAs develop rules or ordinances as part of their TMDL implementation plan, it’s possible that additional indirect costs could be passed along in the form of local permit fees. DEQ is unable to quantify the specific impacts of those potential additional costs if they exist to residential or business development costs.

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.

The proposed rules are expected to have a positive impact on and help promote racial equity, particularly in benefitting Tribal interests. The true externalized costs of water pollution often negatively affect the indigenous, rural, minority and poor communities in Oregon. The proposed rules will help maintain healthy and abundant fisheries including subsistence salmonid fisheries and will also help minimize treatment costs of providing fresh, clean, and healthy water supplies to disadvantaged communities. Tribal nations were made aware of the rulemaking process and invited to consult on the rule advisory committee including, the Nez Perce Tribe and the Upper Snake River Tribes (composed of the Burns Paiute Tribe, Fort McDermitt Paiute-Shoshone Tribe, Shoshone-Bannock Tribes of the Fort Hall Reservation, and Shoshone-Paiute Tribes of the Duck Valley Reservation). DEQ also engaged extensively with agricultural, forestry, fishery, and conservation communities through the Rule Advisory Committee.

Environmental justice considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues.

Environmental justice analysis

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. DEQ is committed to incorporating environmental justice best practices into its programs and decision-making, to ensure all people in Oregon have equitable environmental and public health protections.

The externalized costs of water pollution can negatively affect poor, rural, indigenous and minority communities in Oregon. The proposed rules will help restore and maintain healthy and abundant fisheries, including salmonid species. Indigenous, rural, minority and poor communities may use salmon as a subsistence food source. Abundant fish would also restore and protect beneficial uses including recreation. The proposed temperature TMDL rule will help address the localized impacts of stream temperature impairments, and potentially improve other related water quality parameters, such as dissolved oxygen.

Unintended adverse consequences may include focusing available grant funding on rural lands that are not typically owned or managed by poor, indigenous and minority communities in Oregon, e.g., lands managed for agriculture in the Snake River Basin and privately owned properties adjacent to rivers and streams. Cost of DMAs compliance with TMDL requirements may be passed on to local communities through increased charges, such as water-related bills or system development charges to help pay for TMDL implementation. A potential favorable offset to some of the issues described above will be the current expansion of the 319 grant funding program. The program is being redeveloped to focus on environmental justice. The EPA memorandum "Continued Actions in FY23 to Increase Equity and Environmental Justice in the Nonpoint Source Program" will be used as a tool for DEQ to leverage potential 319 grant funding for overburdened communities. This initiative is currently in development.

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 benefit on land use from cleaner water, and productive and healthier watersheds. Productive watersheds will enhance activities and beneficial uses such as water supply and livestock watering, salmon and steelhead fisheries, recreational economies that attract tourism and tourism-related jobs, and aesthetic quality from riparian planting.

EQC prior involvement

- March 2026 EQC meeting: mention during the TMDL informational update

Advisory committee

Background

DEQ convened a Snake River temperature TMDL replacement advisory committee. The committee met twice on Feb. 4, 2026 and April 22, 2026. The committee's web page is located at [Department of Environmental Quality : Snake River Temperature TMDL : Rulemaking at DEQ : State of Oregon](#).

The committee members were:

Name	Representing
Maria Snodgress	Oregon Department of Agriculture
Rebecca Anthony	Oregon Department of Fish and Wildlife
Rebecca McCoun	Oregon Department of Forestry
Marshall Pierce	City of Ontario
Evan Magner	Malheur County
Doni Bruland	Baker County
Katy Nesbitt	Wallowa County
Jesse Naymik	Idaho Power Company
Ellie Hanson	Malheur Watershed Council
Doug Maag	Landowner
Don Elder	Pacific Rivers
Stephen Pfeiffer	Idaho Rivers United
Robbie O'Donnell	Washington State Department of Ecology
Lynn Larsen	Natural Resource Conservation Service
Mike Brown	United States Bureau of Land Management
Ciara Cusak	United States Fish and Wildlife Service
Scott Hauser	Upper Snake River Tribes
Chelsie Dugan	United States Forest Service
Jay Hesse	Nez Perce Tribe

Meeting notifications

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

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
 - Rulemaking
 - DEQ public notices

- Nonpoint Source Water Quality
 - Total Maximum Daily Loads
 - Water Quality Standards
- Added advisory committee announcements to [DEQ's calendar of public meetings](#).

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee discussed the TMDL and WQMP. All agendas, meeting presentations and meeting summaries are online [Department of Environmental Quality : Snake River Temperature TMDL : Rulemaking at DEQ : State of Oregon](#).

Public engagement

Public notice

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

- On Sept. 14, 2026, filing notice with the Oregon Secretary of State for publication in the October Oregon Bulletin;
- Notifying the EPA by mail;
- Posting the notice, invitation to comment and draft rules on the rulemaking web page.
- Emailing approximately 20,500 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking
 - DEQ Public Notices
 - Total Maximum Daily Loads
 - Nonpoint Source Water Quality
 - Water Quality Standards
- Emailing the following key legislators required under ORS 183.335:
 - Senate Committee on Natural Resources:
 - Chair – Senator Jeff Golden
 - Vice-chair – Senator Todd Nash
 - House Committee on Agriculture, Land Use, Natural Resources and Water:
 - Co-Chair – Representative Ken Helm
 - Co-Chair – Representative Mark Owens
 - Vice-Chair – Representative Sarah McDonald
- Emailing advisory committee members,
- Posting on the [DEQ event calendar](#)

How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, mail or at the public hearing.

- **Email:** Send comments by email to: SnakeHells.TemperatureTMDL@DEQ.oregon.gov
- **Postal mail:** Oregon DEQ, Attn: Amanda Ondrick, 475 NE Bellevue Dr #110, Bend, OR 97701
- **At public hearing:** Monday, Oct. 19, 2026 at 5 p.m.

Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives **by 4 p.m., on Oct. 29, 2026.**

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 a hearing by webinar or teleconference.

Date: Oct. 19, 2026

Start time: 5 p.m.

Teleconference phone number: 1-669-444-9171

Meeting ID: 851 3055 3138

Webinar link: <https://deq-oregon-gov.zoom.us/j/85130553138>

Click here for [instructions on how to join the webinar](#).

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.

Non-discrimination statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities.

For translation or other formats, visit DEQ's [Civil Rights and Environmental Justice page](#).

Supporting documents

[Click here to access the following documents:](#)

- [Snake River Total Maximum Daily Load](#)
- [Snake River TMDL Technical Support Document](#)
 - [TSD Appendix A](#)
 - [TSD Appendix B](#)
 - [TSD Appendix C](#)
 - [TSD Appendix D](#)

Draft rules: Edits highlighted

Division 42 TOTAL MAXIMUM DAILY LOADS (TMDLS)

340-042-0090

Total Maximum Daily Loads and Water Quality Management Plans

The following TMDLs are adopted by EQC by reference in this rule on the dates indicated. The TMDL documents and supporting information for TMDLs adopted as rule or issued by order are available on DEQ's website.

(1) Upper Yaquina River Watershed, USGS watershed of the Northern Oregon Coastal Basin (HUC 1710020401):

(a) TMDL: bacteria and dissolved oxygen, Sept. 14, 2023

(b) WQMP: bacteria and dissolved oxygen, Sept. 14, 2023

(2) Powder River Basin, USGS Subbasin of the Middle Snake-Powder Basin (HUC 170502), including the Powder River Subbasin (HUC 17050203), Burnt River Subbasin (HUC 17050202) and Brownlee Subbasin (HUC 17050201):

(a) TMDL: bacteria for *E. coli*, May 23, 2024

(b) WQMP: bacteria for *E. coli*, May 23, 2024

(3) Willamette Subbasins – Ten subbasins within the Willamette Basin (HUC 170900), including the Middle Fork Willamette Subbasin (HUC 17090001), Coast Fork Willamette Subbasin (HUC 17090002), Upper Willamette Subbasin (HUC 17090003), McKenzie Subbasin (HUC 17090004), North Santiam Subbasin (HUC 17090005), South Santiam Subbasin (HUC 17090006), Middle Willamette Subbasin (HUC 17090007), Molalla-Pudding Subbasin (HUC 17090009), Clackamas Subbasin (HUC 17090011), and Lower Willamette Subbasin (HUC 17090012).

(a) TMDL: temperature, May 8, 2025

(b) WQMP: temperature, May 8, 2025

(4) Lower Columbia-Sandy Subbasin (HUC 17080001), within the USGS Lower Columbia Basin (HUC 170800)

(a) TMDL: temperature, Aug. 6, 2024

(b) WQMP: temperature, Aug. 6, 2024

(5) Umpqua River Basin (HUC 170702) that includes North Umpqua Subbasin (HUC 17100301), South Umpqua Subbasin (HUC 17100302), and Umpqua Subbasin (17100303). Excludes the Little River watershed, (HUC 1710030111) where a TMDL was approved by EPA in 2002.

(a) WQMP: temperature (date of EQC adoption)

(6) Snake River – Hells Canyon project area includes the entire extent of the Snake River and Hells Canyon reservoir complex from the Oregon-Idaho border near Adrian, Oregon and river mile 409, to the state line between Oregon, Idaho, and Washington at river mile 176.

(a) TMDL: temperature (date of EQC adoption)

(b) WQMP: temperature (date of EQC adoption)

Statutory/Other Authority: ORS 468.020, 468.065, 468B.030 and 468B.035

Statutes/Other Implemented: ORS 468B.020 and 468B.110

History:

DEQ 12-2025, amend filed 05/9/2025, effective 05/9/2025

DEQ 11-2025, amend filed 05/8/2025, effective 05/8/2025

DEQ 13-2024, amend filed 08/6/2024, effective 08/6/2024

DEQ 9-2024, amend filed 05/28/2024, effective 05/28/2024

DEQ 14-2023, adopt filed 09/15/2023, effective 09/15/2023

Draft rules: Edits included

Division 42 TOTAL MAXIMUM DAILY LOADS (TMDLS)

340-042-0090

Total Maximum Daily Loads and Water Quality Management Plans

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(a) TMDL: bacteria and dissolved oxygen, Sept. 14, 2023

(b) WQMP: bacteria and dissolved oxygen, Sept. 14, 2023

(2) Powder River Basin, USGS Subbasin of the Middle Snake-Powder Basin (HUC 170502), including the Powder River Subbasin (HUC 17050203), Burnt River Subbasin (HUC 17050202) and Brownlee Subbasin (HUC 17050201):

(a) TMDL: bacteria for *E. coli*, May 23, 2024

(b) WQMP: bacteria for *E. coli*, May 23, 2024

(3) Willamette Subbasins – Ten subbasins within the Willamette Basin (HUC 170900), including the Middle Fork Willamette Subbasin (HUC 170900001), Coast Fork Willamette Subbasin (HUC 170900002), Upper Willamette Subbasin (HUC 170900003), McKenzie Subbasin (HUC 170900004), North Santiam Subbasin (HUC 170900005), South Santiam Subbasin (HUC 170900006), Middle Willamette Subbasin (HUC 170900007), Molalla-Pudding Subbasin (HUC 170900009), Clackamas Subbasin (HUC 170900011), and Lower Willamette Subbasin (HUC 170900012).

(a) TMDL: temperature, May 8, 2025

(b) WQMP: temperature, May 8, 2025

(4) Lower Columbia-Sandy Subbasin (HUC 170800001), within the USGS Lower Columbia Basin (HUC 170800)

(a) TMDL: temperature, Aug. 6, 2024

(b) WQMP: temperature, Aug. 6, 2024

(5) Umpqua River Basin (HUC 170702) that includes North Umpqua Subbasin (HUC 17100301), South Umpqua Subbasin (HUC 17100302), and Umpqua Subbasin (17100303). Excludes the Little River watershed, (HUC 1710030111) where a TMDL was approved by EPA in 2002.

(a) WQMP: temperature (date of EQC adoption)

(6) Snake River – Hells Canyon project area includes the entire extent of the Snake River and Hells Canyon reservoir complex from the Oregon-Idaho border near Adrian, Oregon and river mile 409, to the state line between Oregon, Idaho, and Washington at river mile 176.

(a) TMDL: temperature (date of EQC adoption)

(b) WQMP: temperature (date of EQC adoption)

Statutory/Other Authority: ORS 468.020, 468.065, 468B.030 and 468B.035

Statutes/Other Implemented: ORS 468B.020 and 468B.110

History:

[DEQ 12-2025, amend filed 05/9/2025, effective 05/9/2025](#)

[DEQ 11-2025, amend filed 05/8/2025, effective 05/8/2025](#)

[DEQ 13-2024, amend filed 08/6/2024, effective 08/6/2024](#)

[DEQ 9-2024, amend filed 05/28/2024, effective 05/28/2024](#)

[DEQ 14-2023, adopt filed 09/15/2023, effective 09/15/2023](#)