Temperature Total Maximum Daily Loads Replacement project: Middle Columbia-Hood (Miles Creeks)

Sept. 10, 2026

Rule Advisory Committee meeting #2

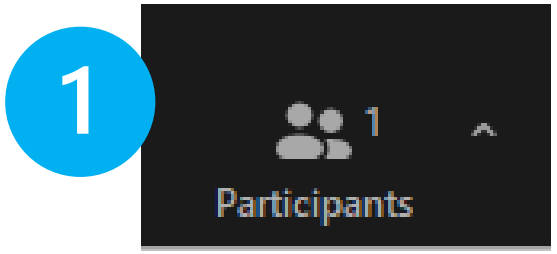
Virtual by Zoom or in person: Columbia Gorge Discovery Center & Museum, 5000 Discovery Dr., The Dalles, OR 97058

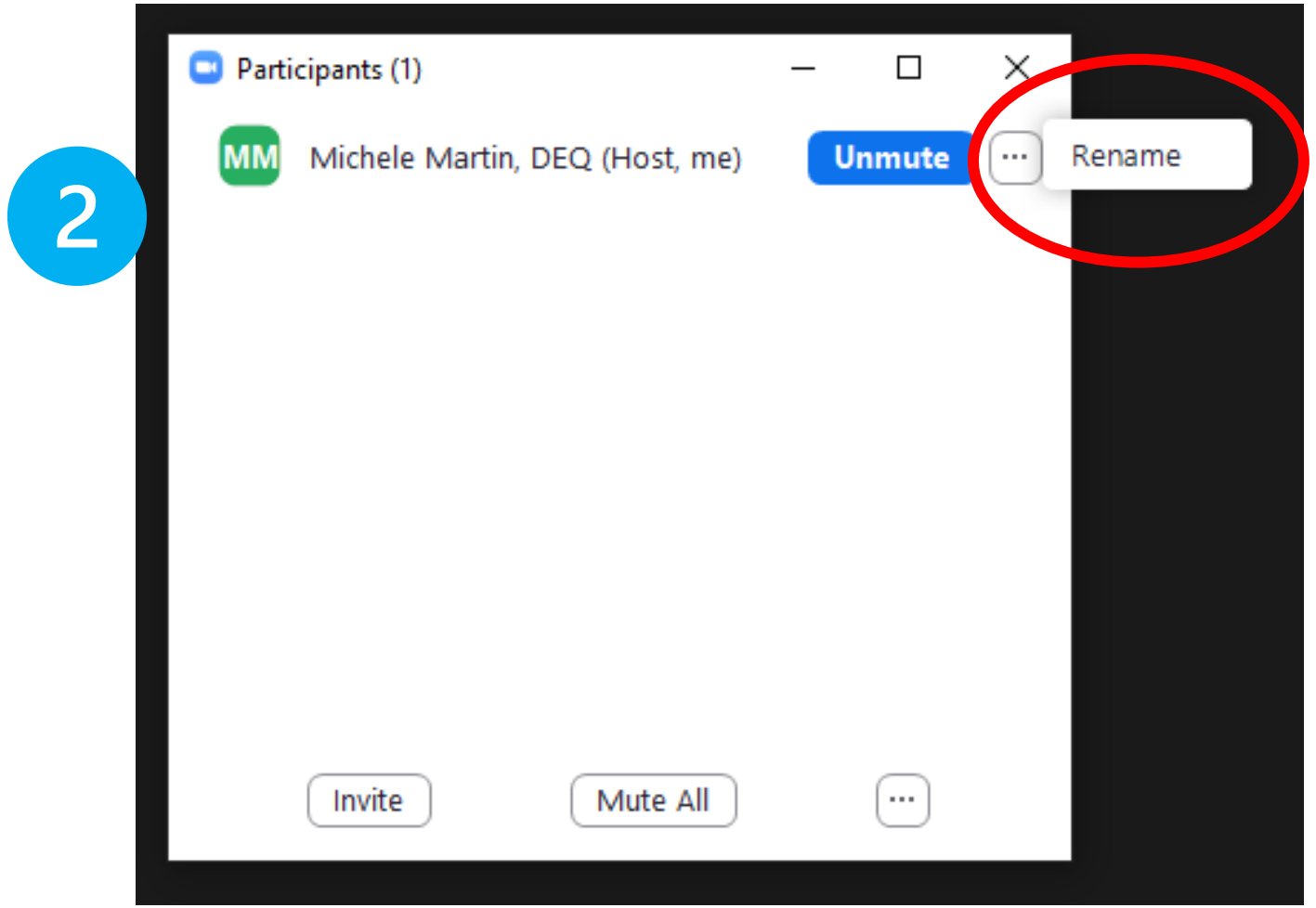
Agenda

Time	Topic
10 a.m.	Welcome, introductions, meeting agenda
10:10 a.m.	Draft Total Maximum Daily Load, updated with input from RAC 1
10:50 a.m.	Draft Water Quality Management Plan, updated with input from RAC 1
11:30 a.m.	Draft Fiscal and Economic Impact Statement
11:50 a.m.	Wrap up, next steps
Noon	Adjourn

Meeting materials online: https://www.oregon.gov/deq/rulemaking/Pages/milescreekTMDL.aspx

Add “AC” to your name in Zoom to identify you as an advisory committee member, e.g., **AC** Michele Martin, DEQ





Zoom logistics and meeting ground rules



Raise hand to be recognized for questions



Use chat to: Ask questions



Mute when not speaking



If using phone: press *9 to raise hand, *6 to mute/unmute

Temperature TMDL Replacement - litigation background

2012: NWEA vs. USEPA, NMFS, USFWS

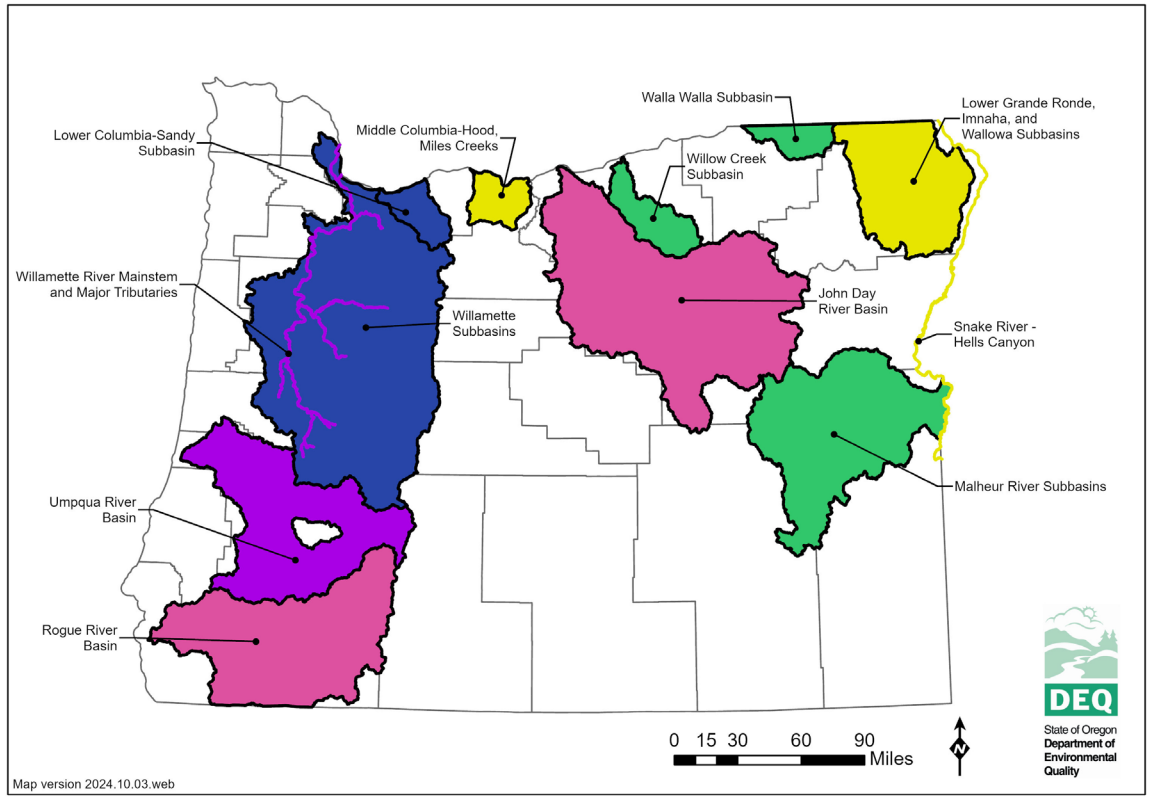
- Lawsuit was seeking judicial review of the EPA's decision to approve Oregon's revised water quality standards (including the Natural Conditions Criteria) and the Services' "no jeopardy" BiOp.
- Judge found “the EPA was unable to articulate a rationale [sic] basis for its approval of the NCC”.
- Court’s judgment resulted in EPA’s disapproval of the Natural Conditions Criteria.

2019: NWEA vs. USEPA

- Lawsuit asserted the EPA unlawfully approved TMDLs that were based on the now disapproved Natural Conditions Criteria.
- The court issued a judgment on Oct. 4, 2019, requiring DEQ and EPA 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 criteria.

- 2012 NCC Court Opinion and Order in NWEA vs. USEPA
- 2019 TMDL Court Opinion and Order in NWEA vs. USPA

Temperature TMDLs Replacement project areas

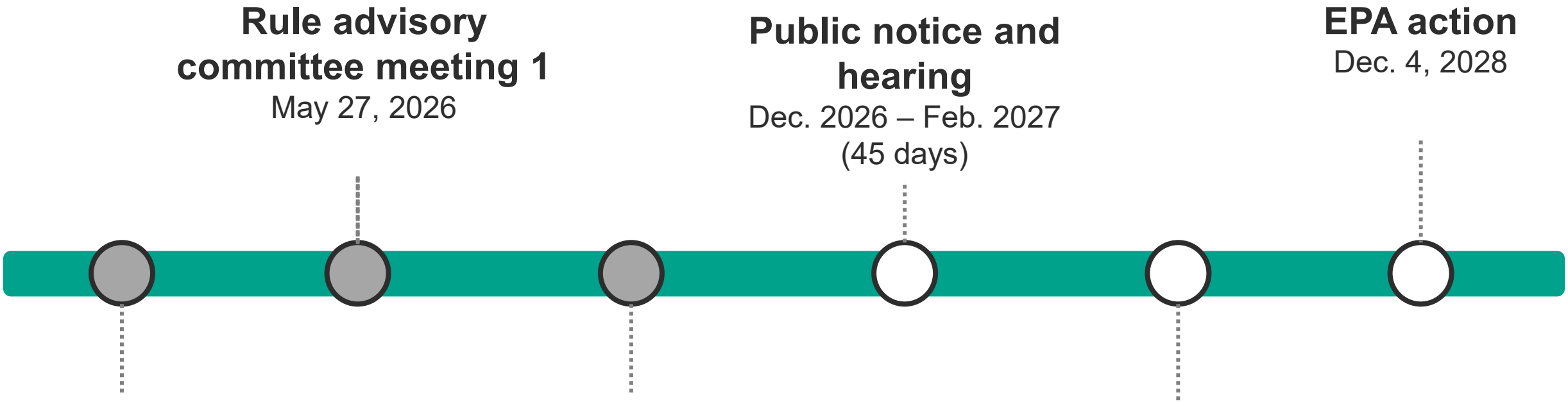


Project website: **https://ordeq.org/tempTMDLs**

Temperature TMDL Replacement timeline

Sep. 15, 2024	June 28, 2025	Oct. 18, 2027	Dec. 4, 2028	Nov. 29, 2029
✓ Willamette Subbasins ✓ Lower Columbia-Sandy Subbasin	✓ Willamette River Mainstem and Major Tributaries ✓ Umpqua River Basin	• Rogue River Basin • John Day River Basin	• Snake River - Hell's Canyon • Lower Grande Ronde, Imnaha, and Wallowa Subbasins • Middle Columbia-Hood, Miles Creeks	• Walla Walla Subbasin • Willow Creek Subbasin • Malheur River Subbasins

Middle Columbia-Hood (Miles Creeks) Subbasin Temperature TMDL Timeline



Document overview

- **Total Maximum Daily Load (TMDL)**
  - Beneficial uses
  - Temperature standard
  - Heat sources
  - Numeric targets
  - Allocations
- **Water Quality Management Plan (WQMP)**
  - Names Designated Management Agencies and Responsible Persons
  - Management strategies
  - Timeline for implementation
- **Technical Support Document (TSD) and appendices**
  - Background information
  - Data evaluation and analysis
  - Model details
- **Fiscal Impact Statement**
  - Statement of fiscal and economic impact
  - Costs associated with compliance

Middle Columbia-Hood (Miles Creeks) Subbasin Temperature TMDL and Technical Support Document



Fifteenmile Creek at Wrentham site

Draft TMDL changes from first Rule Advisory Committee meeting

- Minor edits for syntax, clarity, and formatting
- Revised critical period for the North Fork Mill Creek-South Fork Mill Creek Subwatershed (**Section 5**)
- EPA approved the 2024 Integrated Report listings, and this change was reflected in the updated draft
  - Note that impaired assessment units within the project area did not change
- Revised the narrative to document the termination of the Dufur STP NPDES permit and the date of termination (**Section 7.1**)
- Included a table for thermal loads set aside for reserve capacity (**Table 9-9)**
- No changes were made to HUA assignments from previous draft

Draft TSD changes from first Rule Advisory Committee meeting

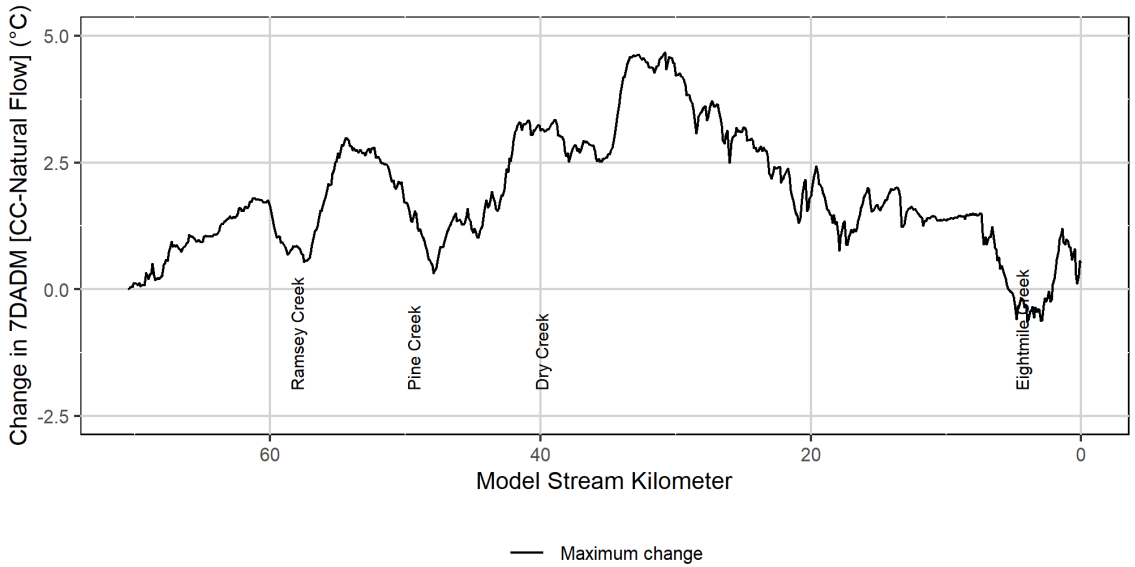
- Minor edits for syntax, clarity, and formatting
- Added tables/figures in various sections that previously contained placeholders
- Revised/added narrative to all subsections of the TMDL name and location section (**Section 2**)
- Revised content in seasonal variation and critical period section (**Section 5**)
- Revised content pertaining to Dufur STP (**Section 7.1, Section 9.1.6.1**)
- Revised and added narrative to nonpoint and background sources section (**Section 7.2**), and load allocations for nonpoint sources (**Section 9.2**)
- Added narrative to water quality standards attainment section (**Section 10**)
- Added section on water quality management plan support (**Section 11**)

New documents: Three TSD appendices

- **TSD Appendix A: Model Report**
  - Model setup and calibration: Current condition
  - Model scenarios: Descriptions, setup, results
    - Restored vegetation
    - Natural flow and consumptive use
    - Warming from tributaries
    - Background
    - Cumulative attainment: total effects of all HUA assignments
- **TSD Appendix B: Assessment Units (AUs) addressed by the TMDL**
  - For each AU in scope, provides identifiers, categorical HUAs, applicable criteria. Lists receiving AU for permitted point sources.
- **TSD Appendix C: Stream buffer width literature review**

Revisions to Consumptive Use model scenario since first Rule Advisory Committee meeting

- Water withdrawals increase 7DADM* stream temperatures by ~ 5°C
- Revised the model scenario to include updated inputs for flows
- No change in allocation from the previous draft TMDL
  - Portion of the HUA allocated to water withdrawals: still 0.10°C



*7-Day Average of the Daily Maximum

Questions on the TMDL and TSD?



Fifteenmile Creek

Water Quality Management Plan

The Water Quality Management Plan is a required element of a TMDL and describes strategies to achieve allocations identified in the TMDL to attain water quality standards.



Dry Canyon

Summary of substantive changes

- Minor edits for syntax, clarity, and formatting
- Updated Proposed management strategies **(Section 2.1)**
- Revised streamside evaluation **(Section 5.3.1.1)**
- Updated buffer width for optional streamside buffer **(Section 5.3.1.2.3)**
- Updated revision timelines for DMAs with existing implementation plans **(Section 5.4)**



Five Mile Creek

Responsible Persons Identified in WQMP

High Potential for Impact	Medium Potential for Impact	Low Potential for Impact	No Implementation Requirements
• Oregon Dept. of Agriculture • Oregon Dept. of Forestry • U.S. Forest Service	• Bureau of Land Management • Col River Gorge NSA • Oregon Parks and Recreation Dept. • Wasco County • City of The Dalles	• Oregon Dept. of Fish and Wildlife • Oregon Dept. of Transportation • Dept. of State Lands • Port of The Dalles • City of Dufur • City of Mosier • NWPRD	• ODOT *(for areas and activities regulated under MS4 permit)* • Hood River County • City of Hood River • The Dalles Irrigation District • Port of Hood River • Union Pacific Railroad

WQMP Section 5.1 and Appendix A

Section 2: Proposed Management Strategies

Vegetation planting and establishment

This strategy **includes activities such as performing work, providing technical support, or conducting outreach and education for riparian tree and shrub planting to establish and enhance riparian buffers. Tree and shrub planting helps riparian areas achieve site potential vegetation heights, which in turn provide effective stream shade.** ~~Restores locations that have little or no shade producing overstory vegetation. These locations are important for streamside tree and shrub planting projects. These sites may currently be dominated by invasive species~~

WQMP Section 2.1

Streamside Evaluation (medium & high potential impact DMAs)

- **Clearer structure and purpose** – New framework focuses on mapping, classifying, and prioritizing streamside areas to guide restoration and implementation planning.

- **Updated evaluation categories** – Replaced detailed data list with five practical categories (protect/enhance/maintain, planting/establishment, vegetation management, constraint-limited, alternative strategies).

- **More defined deliverables** – Evaluation must quantify extent of each category and identify priority areas for protection or restoration. Final product must present streamside lands in a format such as map, table, photos or other product that clearly shows the categories, constraints and priority areas.

WQMP Section 5.3.1.1

Shade Gap Analysis Requirement (high potential impact DMAs Only)

Mt Hood NF, ODA, ODF must choose one of 3 options:

- Use DEQ-provided shade gap analysis (if available)
- Conduct their own analysis using DEQ-approved methods
- Establish and protect overstory, woody vegetation in a riparian buffer **120-foot buffer as measured up-slope** ~~≥ site potential tree height (or ≥35 ft, whichever is greater)~~



South Fork Five Mile Creek

WQMP Section 5.3.1.2

Required Submittals & due dates for existing DMAs

Requirement	Due Date / Timeframe
New TMDL implementation plan (Appendix A)	18 months after EQC adoption of the TMDL, revised every 5 years
Updated TMDL Implementation Plan (Appendix A)	**The revision date indicated in the DMA TMDL implementation plan approval letter, see Appendix D for all DMA due dates** ~~18 months after EQC adoption of Miles reeks Subbasin TMDL~~
Annual report	12 months after implementation plan approval, annually
Year five review report	5 years after implementation plan approval, every 5 years
Streamside evaluation	5 years after implementation plan approval, every 5 years
Shade gap analysis project plan	18 months after EQC adoption of the TMDL
Shade gap analysis or protective buffer	5 years after implementation plan approval

WQMP Section 5.4 and Appendix D

Natural Disturbances in the WQMP

- No enforcement for natural disturbance impacts
  - DEQ does **not** take enforcement action when effective shade is reduced by wildfires, floods, storms or other natural events. (WQMP Section 5.3.1.1, pg. 26)
- Natural factors can delay achieving shade target goals
  - The WQMP recognizes that wildfire, floods, soils, geology and other natural conditions may slow progress towards shade restoration (WQMP Section 5.3.1.1, pg. 26)
- Vegetation management can include thinning and invasive species management to prevent harm from wildfire and disease (WQMP Section 2.1.1, pg. 11)
- Recovery takes time
  - Local improvements may appear within years, but full basin recovery requires ongoing, long-term implementation (WQMP Section 4.2, pg. 11)

Questions on the Water Quality Management Plan?



Fifteenmile overlook

Draft rule language

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.

(9) Middle Columbia-Hood (Miles Creeks) Subbasin (17070105) that includes the Eightmile Creek Watershed (1707010502), Fifteenmile Creek Watershed (1707010503), and Mill Creek-Columbia River Watershed (1707010504), and four subwatersheds within the Mosier Creek-Columbia River Watershed (1707010511), including Upper Mosier Creek Subwatershed (170701051102), Lower Mosier Creek Subwatershed (170701051103), Rock Creek Subwatershed (170701051104), and Rowena Creek-Columbia River Subwatershed (170701051105).

a) TMDL: temperature, MM DD, YYYY

b) WQMP: temperature, MM DD, YYYY

Fiscal, economic, and racial equity impacts

Administrative Procedures Act

- ORS 183.333: DEQ must solicit input from a rule advisory committee on:
  - Whether the rule has fiscal impact, and the extent of that impact
  - Whether the rule will have a significant adverse impact on small businesses
- ORS 183.335(2)(b)(F): how adoption of the rule will affect racial equity
- ORS 182.545: consider the effects of the action on environmental justice

Fiscal Impact Statement – updates from rule advisory committee meeting 1

- Minor edits for syntax, clarity, and formatting
- Clearer definition of environmental justice and how DEQ applies environmental justice principles
- Updated community information
  - Higher portion of low-income residents than the state average
  - Wildfire risk included
  - Higher percentage of Tribal Citizens and Alaska Native residents than the state average

Fiscal impact analysis, questions for feedback

1. Will the draft rule have a significant adverse impact on small businesses?
2. If a significant impact is identified, how could DEQ reduce the fiscal impact on small business (ORS 183.333 and 183.450)
3. Will the proposed rule impact racial equity?
4. What are additional considerations for environmental justice for this draft rule?
5. What types of entities will be impacted by the proposed rule?
6. How and to what extent will the proposed rule have a positive, negative, or no impact on these entities?

Next steps

Input from committee meeting #2. Email feedback to: MiddleColumbia.TemperatureTMDL@DEQ.oregon.gov	Due: Thursday, Sept. 24, 2026
Public notice (45 days)	Dec. 2026 – Feb. 2027
EQC informational item	July 2027
EQC meeting for proposed adoption	Sept. 2027
EPA action	Dec. 4, 2028

Sign up for email updates on TMDLs:
https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic_id=ORDEQ_41

Miles Creeks temperature TMDL contacts

TMDL development

- Steve Mrazik, Manager Steve.Mrazik@deq.oregon.gov
- Becky Talbot, Analyst, Rebecca.Talbot@deq.oregon.gov

WQMP development

- Smita Mehta, Acting Manager Smita.Mehta@deq.oregon.gov
- Karissa Willits, Interim Basin Coordinator Karissa.Willits@deq.oregon.gov

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Title VI and alternate formats

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