

## **Biennial Review Request for Comments From DEQ (revised 8-28-12)**

*"The State Department of Agriculture and the State Board of Agriculture shall consult with the Department of Environmental Quality or the Environmental Quality Commission in the adoption and review of water quality management plans and in the adoption of rules to implement the plans." ORS 568.930(2)*

Survey Checklist for Molalla-Pudding/French Prairie/North Santiam Ag WQMAP:

DEQ Basin Coordinator: Nancy Gramlich and Karen Williams

Date: 10/16/2014

(If answered "no", please provide information and/or example language)

### **I. Area Plan Content**

#### **A. Issue identification**

1. Does the Area Plan include all water quality limited water bodies, including 303(d) listed and with approved TMDLs?

*DEQ COMMENT: Current Area Plan submitted for review indicates the ODA has yet to determine if there will be a link to DEQ website or a summary table. If you decide to include an appendix for this information, DEQ is available to review the appendix prior to presentation to the LAC in November 2014. Fourteen stream reaches have been listed as impaired since the 2010 Area Plan was modified.*

*ODA RESPONSE: A link is provided in the Area Plan.*

2. Does the Area Plan adequately reflect current TMDL status?

*DEQ RESPONSE: Yes*

3. Does the Area Plan sufficiently present the TMDL load allocation that it is intended to address?

*DEQ RESPONSE: Chapter 2, Section 2.4.3 describes the TMDLs but does not define or include load allocation information. We recommend you include a summary of the load allocation relationship to needed reductions for meeting water quality standards (Summary table below). As well, approximated, summarized load reductions are cited as measurable objectives on page 57 (Section 3.2) of the Plan. That section should mention the TSS surrogate load reductions for legacy pesticides (7 – 15 mg/L on Zollner, Little Pudding, and Pudding Rivers).*

Subbasin	Parameter Reductions
<b>Clackamas Middle Willamette Molalla- Pudding</b>	<b>Mercury:</b> 27% Willamette Basinwide - All Subbasins <b>Temperature:</b> Attainment and preservation of effective shade levels on smaller tributaries associated with system potential vegetation will eliminate most anthropogenic nonpoint source heat loads. Surrogate measure is percent effective shade targets and a heat load equivalent of 0.05 °C of the Human Use Allowance. Other important measures— preserving and restoring cool water refuges where salmonids rear and migrate to when the river warms up in the summer; restore instream flow quantity.
<b>Middle Willamette</b>	<b>Bacteria:</b> 88% summer 75% fall-winter-spring Middle Willamette Specific Tributaries 81% Mill Creek Turner Road 79% Pringle Creek at Pringle Park/Church Street 89% Clark Creek at Mouth Bush Park
<b>Molalla- Pudding</b>	<b>Bacteria:</b> Agricultural land use, unless otherwise specified: 87% (summer), 92% (winter) 70-92% Pudding R., Zollner Cr., Silver Cr., W. Fk. Little Pudding, Molalla R. (October 1 – May 31)  75 – 86% Pudding R., Zollner Cr., Silver Cr. (June 1 – September 30)
<b>Pudding</b>	<b>Iron:</b> 3-6 mg/l total suspended target to meet 19% to 96% based on stream flow Pudding River and Zollner Creek Watersheds. <b>Legacy Pesticides:</b> Surrogate Load Allocation Total Suspended Solids (96 hr average) Pudding River: 15 mg/L Zollner Creek: 15 mg/L Little Pudding River: 7 mg/L  -90% Dieldrin Pudding River and Tributaries 95% Dieldrin Zollner Creek  DDT congeners Little Pudding River: 95 – 99% Pudding River and tributaries: 61 – 97% Zollner Creek: 71 – 99%  <b>Nitrate:</b> 48% Reduction Zollner Creek and tributaries

*ODA RESPONSE: The load allocation table has been included in Section 3.2.*

4. Does the Area Plan adequately include items from applicable Groundwater Management Area Action Plans?

*DEQ RESPONSE: No GWMA in this Management Area, but a general discussion about GWMA is contained in the Area Plan. Actions for GWMA are likely relevant to the protection and restoration of groundwater. Chapter 2 Section 2.5 is generic to all Area Plans, and the link to groundwater protection and restoration could be established in this section. The Plan should acknowledge the two groundwater limited areas, Mt. Angel and Glad Tidings, within the geographic scope of the Plan.*

*ODA RESPONSE: The plan acknowledges groundwater limited areas in Section 2.3.4.*

5. Does the Area Plan present the requirements of Coastal Zone Management Act applicable to agriculture?

*DEQ COMMENT: The Management Area does not reside within the coast. However, on the ground actions for the Coastal Zone are likely relevant to the protection and restoration of water quality in all Area Plans. Coastal Zone documentation is based on a collaborative public involvement effort amongst many partners. Retaining a generic section for Coastal Zone actions could generically and indirectly apply to all Area Plans.*

*ODA RESPONSE: On the ground actions in the Plan as described in the example management practices summarized in Chapter 2 are sufficient to prevent and control water pollution.*

6. Does the Area Plan include sufficient items from the State of Oregon; Pesticide Management Plan for Water Quality Protection?

*DEQ COMMENT: Chapter 1, Section 1.5.5, provides an overview on pesticide related programs. Chapter 4 and Appendices K and L are under development, but do contain information pertaining to PSP. Appendix K should be updated with PSP data and conclusions current through 2013.*

*ODA RESPONSE: ODA will work with the LAC to update the PSP data during the 2016 review.*

7. Does the Area Plan sufficiently address the needs in drinking water source areas related to agricultural pollution sources within the geographic area of the plan?

*DEQ COMMENT: Chapter 2, page 41, discusses present water use, including public drinking water. Chapter 2, section 2.5, could identify what prevention and control measures also tie to drinking water protection. Surface water assessment information is available for the Management Area at the following link:*

*<http://www.deq.state.or.us/wq/dwp/dwp.htm>. Assessments for the cities identify agricultural activities that may impact drinking water quality. For example:*

- Improper storage and management of animal wastes may adversely impact drinking water supply.*
- Concentrated livestock may contribute to erosion and sedimentation of surface water bodies which may adversely impact drinking water supply.*
- Over-application or improper handling of pesticides/fertilizers may adversely impact drinking water.*
- Some agricultural practices may result in excess sediments discharging to surface waters which may adversely impact drinking water supply.*
- Observed stream bank erosion/slide potential appears to be a problem along portions of rivers. Sediments from stream bank erosion may adversely impact drinking water supply.*

- *Excessive irrigation may transport nurseries, contaminants or sediments to greenhouses) groundwater/surface water through runoff which may adversely impact drinking water supply.*
- *During major storm events, reservoirs may contribute to prolonged turbidity for downstream intakes for drinking water. Construction, fluctuating water levels, and heavy waterside use can result in increased erosion and turbidity, which may adversely impact drinking water supply.*

*ODA RESPONSE: Agricultural water quality regulations currently require that producers prevent and control water pollution to meet federal Clean Water Act (CWA) requirements. Protection of drinking water sources is encompassed in the CWA (e.g., 40 CFR Part 403). However, ODA welcomes a summary of information from DEQ about drinking water source areas. ODA will work with the LAC, SWCD, and DEQ to review DEQ's drinking water source information and consider adding it to the Plan at the 2016 biennial review.*

**B. Goals and Objectives:**

1. Do the goals and objectives of the Area Plan clearly state that the purpose of the Area Plan is to prevent and control water pollution and to meet water quality standards?

*DEQ COMMENT: Chapter 3, Section 3.1 goals are established. Other portions of Chapter 3 and Appendix F are evolving nicely in terms of establishing objectives. Once finalized, DEQ is available to review this section in the Area Plan prior to LAC meeting in November, 2014.*

*ODA RESPONSE: ODA worked with the LAC to update the goal so that it states the goal is to "prevent and control" water pollution and to meet water quality standards.*

2. Does the Area Plan include clear and measurable objectives that are designed to meet water quality standards and TMDL load allocations?

*DEQ COMMENT: Section 3.2 appropriately includes several summarized, estimated TMDL load allocations as the measurable objectives of the Plan. Chapters 3, 4, and Appendices F, K, and L are evolving nicely as a strategy for tracking and documenting progress over time. Once finalized, DEQ is available to review these sections in the Area Plan prior to LAC meeting in November, 2014.*

*ODA RESPONSE: ODA will continue to work with the LAC to further develop measurable objectives at a future meeting. We will continue to consult with DEQ to develop measurable objectives.*

C. Strategies to Meet Water Quality Goals and Track Progress

1. Are geographic and/or water quality issue priorities listed in the Area Plan consistent with TMDL and GWMA priorities?

*DEQ COMMENT: Refer to cover letter and enclosures for details.*

*ODA RESPONSE: ODA believes the geographic and water quality issue priorities listed in the Area Plan are consistent with the TMDL. ODA continues to work with the LAC and SWCD on a path of continual improvement and adaptive management.*

*There is no GWMA in this Area Plan.*

2. Are geographic scales and implementation actions identified in the Area Plan appropriate to track implementation, progress, and effectiveness?

*DEQ COMMENT: Refer to cover letter and enclosures for details.*

*ODA RESPONSE: ODA will continue to work with the LAC and SWCD to improve measurable objectives over time.*

3. If applicable, is the Watershed Approach Action Plan addressed?

*DEQ COMMENT: Watershed Approach Action Plans drafted. DEQ review and request for review and publication pending.*

4. Does the Area Plan provide sound evidence or reasons why implementation actions could lead to pollution reduction? If some of the implementation actions are not consistent with TMDL and other WQ goals, explain why those practices do not contribute toward meeting those WQ goals.

*DEQ COMMENT: Generally speaking, yes. However, the extent and where implementation is occurring to meet the reductions and water quality standards is unclear.*

*ODA RESPONSE: Work has begun in the Silver Creek Focus Area. Focus areas serve to measure and assess progress, providing evidence whether implementation actions lead to pollution reduction.*

5. Does the Area Plan include timelines, schedules, and measurable milestones that are consistent with the TMDL WQMP?

*DEQ COMMENT: Generally, the Plan lacks interim milestones and benchmarks to assess progress toward the measurable objectives. Measurement of riparian zone coverage with a focus area is worthwhile but not sufficient documentation of progress. Progress toward interim milestones should be documented in the Biennial report.*

*ODA RESPONSE: ODA's priority for this biennial review was to work with the LAC and the SWCD to convert this Area Plan to a new template format to be utilized*

*across Oregon. We accomplished that task. ODA will work with the LAC and the SWCD to prioritize Measurable Objectives at the next biennial review.*

6. Is monitoring adequate to determine whether progress is being made to achieve the goals of the plan? If no, are monitoring needs identified and is there a strategy to meet those needs?

*DEQ COMMENT: Some information is included in the Area Plan. Section 3.3.4 is evolving nicely. Indicating Chapter 4 relation and Appendices that relate to this section would be helpful for the reader. A collaborative monitoring meeting, to answer the questions posed and finalize the Area Plan components for monitoring, was held by ODA on October 7, 2014. Once finalized, DEQ is available to review the specific monitoring sections in the Area Plan prior to LAC meeting in November, 2014. Monitoring may be adequate to report Plan progress, but reporting on those monitoring results is not adequate. Section 3.3.4, page 64, should include a list of the nine water quality sites and the six flow sites that the Marion SWCD has been monitoring for the past several years, or better yet, a map of the sites. DEQ also recommends follow through on two activities mentioned on page 65: including the questions the LAC wants answered by monitoring and updating the format of the biennial report to include progress reporting.*

*DEQ would be also interested in reviewing Chapter 4, once it's complete. The outline of topics to be covered in Chapter 4 seems complete and appropriate.*

*ODA RESPONSE: Section 3.3.4 is updated to provide information about past and current monitoring efforts. Our collective ability to report results will improve over time. The October 7, 2014, monitoring partners meeting helped us begin to develop better ways to report monitoring results and we look forward to DEQ and other monitoring partners continued assistance.*

## **II. Implementation/evaluation**

- A. Are voluntary efforts sufficient to implement the Area Plan or are additional incentives needed to increase the rate of participation?

*DEQ COMMENT: Determining the answer to this question is more suitable for discussion at the ODA program level because it has an impact on Area Plans overall. Some information is included in the Area Plan. Focus Areas and Strategic Implementation Areas seem to be supportive of needing more incentives to increase the rate of participation. Including map of the location of conservation projects (cumulative since area planning began) would also help answer this question. Are milestones and timelines established for Area Plans achieving the goal of the Program? The Plan does not currently contain milestones and timelines. Chapters 3, 4, and Appendices F, K, and L are evolving nicely as a strategy for tracking and documenting progress over time. Once finalized, DEQ is available to review these sections in the Area Plan prior to LAC meeting in November, 2014.*

*ODA RESPONSE: Work has begun within the Silver Creek Focus Area. The pre-assessment has been completed and work with landowners to voluntarily complete projects is underway. A post-assessment will be completed and ODA, the LAC, and the SWCD will evaluate progress. Lessons learned from this first experience will be used as part of our adaptive management effort and be applied in the next Focus Area.*

- B. Is reasonable progress being made towards accomplishing milestones and timelines in the Area Plan?

*DEQ COMMENT: The Plan does not currently contain milestones and timelines. Chapters 3, 4, and several of the appendices are evolving nicely as a strategy for tracking and documenting progress over time. Once finalized, DEQ is available to review these sections in the Area Plan prior to LAC meeting in November 2014.*

*ODA RESPONSE: As noted previously, ODA's priority for this biennial review was to work with the LAC and the SWCD to convert this Area Plan to a new template format to be utilized across Oregon. We accomplished that task. ODA will work with the LAC and the SWCD to prioritize Measurable Objectives at the next biennial review.*

### III. Area Rules

- A. Are the prohibited conditions likely to be effective in making reasonable progress towards meeting state water quality goals?

*DEQ COMMENT: Prohibited conditions are not linked to the overall extent of implementation but apply to the entire Management Area, with the exception of one Focus Area. This makes it difficult to confirm reasonable progress; including the Silver Creek Focus Area, information supports capturing actions and progress. A historical summary of Zollner, which was essentially a "focus Area," would retain historical progress. Pesticide monitoring information would also be relevant to the Pudding. Looking back at historical progress, current, and reporting at defined scales is informative and allows for understanding progress in such a large Management Area.*

*The way the OARs are presented in Section 2.5 is somewhat confusing. I interpret that the first four (nutrients, manure, riparian, erosion) apply to this Area Plan, and the remainder, listed as optional (chemigation, irrigation, drainage, pesticides), do not apply but are encouraged. The rules do address, at least indirectly, each of the TMDL parameters though their likelihood to be effective depends on the Plan's implementation.*

*ODA RESPONSE: The Agricultural Water Quality Management Program is based on both regulatory and voluntary measures. An underlying assumption is that the rules will likely to be effective in making reasonable progress towards meeting water quality goals but that additional voluntary measures will also be necessary to achieve these goals.*

*Section 2.5 is amended to clarify that chemigation, irrigation, drainable and pesticides are required not optional.*

B. Are additional prohibited conditions or other mandatory control measures needed?

*DEQ COMMENT: Some of the information above explains this. Prohibited conditions and control measures can also be linked to groundwater, 303(d) listings, and other programs. The proposed 2014 Area Plan should emphasize a focus on water quality protections overall not just TMDLs. Including information about the CAFO program highlights the importance of programs in-place in support of water quality protection and restoration. Chapter 2 Section 2.5 with the exception of Nitrate, does not identify 303(d) listings without TMDLS developed or established to date.*

*ODA RESPONSE: The statutory goal of the Plan is to prevent and control water pollution and we believe the Plan includes programs to address water quality protection overall, not just TMDLs. See Appendix C for the 303(d) listings.*