

Water Quality Total Maximum Daily Loads, Division 42 rulemaking

Fiscal Advisory Committee charter

Sept. 2, 2021

Michele Martin, Project Manager

Water Quality

700 NE Multnomah St.
Portland, OR 97232
Phone: 503-229-5696
800-452-4011
Fax: 503-229-5850
Contact: Michele Martin
Michele.martin@deq.state.or
.us
www.oregon.gov/DEQ

DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.



State of Oregon
Department of
Environmental
Quality

Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.

Table of Contents

Objectives and Scope	1
Fiscal and Economic Impact	1
Roles	1
DEQ facilitator	1
Committee members	1
Non-committee member attendees	2
DEQ staff	2
DEQ support and website	2
Committee Meetings	2
Decision making	3
Membership	3
Public Records and Confidentiality	4
Information Exchange	4
Public Involvement	4
DEQ Contacts	4

Objectives and Scope

The Oregon Department of Environmental Quality is conducting a rulemaking to allow TMDLs to be adopted by rule by the Environmental Quality Commission, consistent to what is currently authorized in ORS 468B.110, in addition to issuing TMDLs by Department order.

This proposed rulemaking will also include minor changes to update the following rule language to reflect current EPA requirements established by case law:

1. Clarifying that “daily load is required” to the TMDL definition
2. Clarifying language to reasonable assurances of implementation

Fiscal and Economic Impact

ORS 183.333 requires that DEQ ask the committee to consider the fiscal and economic impact of the proposed rules including:

- Whether the rules will have a fiscal impact, and if so, what the extent of that impact will be.
- Whether the rules will have a significant adverse impact on small businesses, and if so, how DEQ can reduce the rules’ negative fiscal impact on small businesses.

Roles

DEQ facilitator

The facilitator:

- Encourages open, candid and robust dialogue
- Starts and ends the meetings and agenda items on time
- Encourages innovation by listening to all ideas
- Tries not to lose good ideas to the consensus process
- Recognizes when the discussion is outside the scope of the meeting and steers the discussion back to the focus of the meeting

Committee members

Advisory committee members must attend each meeting to ensure continuity throughout the process. An alternate may be assigned if needed. However, it is each committee member’s responsibility to fully brief their alternate on all relevant issues and prior committee discussions to meet the meeting objectives and keep the project on schedule. If a primary and alternate member are both in attendance at the same meeting, only the primary may act as a committee participant while the alternate may attend as an observer. If a member’s absence is unavoidable, please notify the DEQ project manager.

The committee member:

- Prepares for and sets aside time for the meeting
- Provides DEQ staff with copies of relevant research and documentation cited during the meeting
- Stays focused on the specific agenda topics for each meeting

- Comments constructively and in good faith
- Consults regularly with constituencies to inform them on the process and gather their input;
- Treats everyone and his or her opinions with respect
- Allows one person to speak at a time
- Is courteous by not engaging in sidebar discussions
- Avoids representing to the public or media the views of any other committee member or the committee as a whole

Non-committee member attendees

Those who attend the committee meetings, but are not members of the committee are there only to observe and not to actively participate. If non-committee members are present at a meeting, DEQ may allow time during the meeting for their comments.

DEQ staff

DEQ is committed to making the most effective use of committee member's time by:

- Establishing clear committee goals, meeting objectives and agendas
- Giving committee members reasonable access to staff
- Encouraging all members to take part in discussions
- Providing a clear description of members' roles, the committee timeline, the level of agreement expected and feedback on how members' input is used

DEQ support and website

DEQ will post agenda and meeting materials on the advisory committee website at least one week in advance. DEQ administrative staff will provide meeting summaries that highlight committee discussions, different perspectives, and input of committee members. DEQ will not prepare a formal committee report. DEQ will send draft meeting summaries to the advisory committee for review and input. Final meeting minutes will be posted to the advisory committee website and will be part of the public record.

The advisory committee charter, a full roster of the committee, meeting agendas and minutes, and background materials will all be located on the advisory committee webpage

<https://www.oregon.gov/deq/Regulations/rulemaking/Pages/tmdl2022.aspx>

Committee Meetings

1. All committee meetings will be:
 - Open to the public, although the committee can choose whether the public can actively participate in committee meetings
 - Advertised on DEQ's webpage calendar two weeks before the meeting at: [DEQ Event Calendar](#)
 - Noticed by email using GovDelivery lists for rulemaking and TMDLs
 - Accessible via a call-in number or webinar
2. The committee is expected to meet one time virtually using Zoom.

- Meeting materials and agenda will be posted to the advisory committee webpage

Decision making

The committee’s discussions will be used by DEQ in forming its draft rule, which will then be proposed for broader public review and comment as part of DEQ’s rulemaking process.

When DEQ shares information with the group, DEQ will allow a reasonable timeframe for comments.

Membership

In convening this committee, DEQ selected members that reflect the range of stakeholders the proposed rules affect, both directly and indirectly. Representatives should be able to consider the policy, fiscal and economic impact of the proposed standard on the business or organization they represent.

Advisory Committee Membership	
Committee Members	
Name	Affiliation
April Snell	Oregon Water Resources Congress
Carl Merkle	Confederated Tribes of the Umatilla Indian Reservation
Corissa Holmes	Oregon Association of Clean Water Agencies
Kathryn VanNatta	NW Pulp & Paper Association
Marganne Allen	Oregon Dept. of Agriculture
Mary Ann Cooper	Oregon Farm Bureau
Mike Eliason	Oregon Forest & Industries Council
Sharla Moffett	Oregon Business and Industry
Thomas Whittington	Oregon Dept. of Forestry

Public Records and Confidentiality

Committee communications and records, such as formal documents, discussion drafts, meeting summaries and exhibits are public records and are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings. However, the private documents of individual committee members generally are not considered public records if DEQ does not have copies.

Information Exchange

Committee members will provide information as much in advance as possible of the meeting at which such information is used. The members will also share all relevant information with each other to the maximum extent possible. If a member believes the relevant information is proprietary in nature, the member will provide a general description of the information and the reason for not providing it.

Public Involvement

All meetings will be open to the public. The committee can choose whether to allow public input during a committee meeting. DEQ may set aside time for the public to speak.

Once the committee process is complete, DEQ will develop draft rules and conduct a public rulemaking process. That process will include a specified period during which the public can submit comments on the proposed rules. DEQ will also hold a public hearing during which any member of the public can submit written or verbal comments. Individual committee members may provide comments to DEQ on the full draft rule at this time. DEQ may modify the final proposed rules based on public comment. DEQ intends to take a final proposed rule to the EQC for consideration at its meeting.

DEQ Contacts

Primary Contact: Gene Foster, Water Quality manager: eugene.p.foster@deq.state.or.us

Alternate Contact: Michele Martin, project manager: michele.martin@deq.state.or.us

Rulemaking webpage: <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/tmdl2022.aspx>