

Powder River Watershed TMDL

Summary

Rule Advisory Committee Meeting #1

Nov. 09, 2022, 1 p.m. to 4 p.m.
Zoom meeting



State of Oregon
Department of
Environmental
Quality

List of RAC member attendees

Name	Affiliation
Doni Bruland	Baker County
Jana Peterson	Oregon Department of Forestry
John Rademacher	BLM Baker Field Office
Joe Lemanski	Oregon Department of Fish and Wildlife
Karen Reiner	Local landowner
Shawn Klaus	Burnt River Irrigation District
Tom Demianew	Oregon Department of Agriculture
Whitney Collins	Baker Soil and Water Conservation District

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

* Curtis Martin (Powder Basin Watershed Council) did not attend, and Joe Aragon (BLM Baker resource area) left the meeting early.

List of DEQ team attendees

Name	Role
Vanessa Rose	Powder Basin Coordinator
Alex Liverman	Watershed Management Program Analyst
Dan Sobota	Water Quality Analyst
Lauren Wirtis	Public Affairs Specialist
Amanda Ondrick	Basin Specialist

List of handouts

- [Draft agenda](#)
- [Charter](#)
- [Draft Fiscal Impact Statement](#)

Agenda

Time	Topic
1 p.m.	Welcome, introductions, and meeting logistics
1:15 p.m.	Powder River Basin Total Maximum Daily Load, or TMDL, issuance process Rule Advisory Committee process- charter review
1:45 p.m.	TMDL basics
2 p.m.	Powder Basin <ul style="list-style-type: none">• Bacteria source assessment and allocations
2:30 p.m.	Water quality management strategies
2:45 p.m.	Break
2:55 p.m.	Fiscal impact statement overview and discussion
3:45 p.m.	Next steps, review rule process and schedule
4 p.m.	Adjourn

Meeting Summary

DEQ presented slides during the entirety of the meeting. The information presented in the slides is not repeated in this summary. Rather, the slides are posted as a pdf on the Powder River Basin Total Maximum Daily Load Rulemaking webpage as a companion to this summary of comments and discussion by the Rule Advisory Committee members.

DEQ began the meeting by welcoming all attendees, and briefly described some Microsoft Teams logistics.

Shawn Klaus mentioned that there may be a possibility he would have to leave before the end of the meeting and asked if the materials presented today would be posted anywhere after the meeting. Vanessa Rose stated that the slideshow along with other materials would be posted to the Powder River Basin TMDL rulemaking webpage.

Following introductions of DEQ staff, committee members were asked to introduce themselves. Lauren Wirtis provided an alphabetized list of names in the chat for order of introductions.

Joseph Aragon left a message in the chat stating that needed to leave the call.

Vanessa briefly went over the agenda and Alex Liverman proceeded to present the Powder River Basin TMDL process timeline and continued by reviewing the RAC charter.

Following the charter discussion, Alex asked the RAC members to indicate affirmation of the charter via head nods, verbal assent, thumbs up icons and in the chat. The RAC members did and there were no disagreements with the RAC charter.

Vanessa presented on TMDL basics, including a conceptual illustration that demonstrated the general steps and components of TMDL development, as well as slides on the technical aspects of assessing sources, determining pollutant loading and distributing allocations for bacteria.

Vanessa stopped briefly to ask if anyone had any questions. There was no response, Vanessa indicated that she would continue with the slides but encouraged the RAC members to stop her at any time or utilize the chat box for any questions they may have.

Vanessa then proceeded with the slideshow presenting on the Powder Basin TMDL analysis approach, along with primary modeling outputs and load allocations. Vanessa once again asked if there were any questions or needs for clarification, Alex added that they could go back to any slide at any time if a question were to arise. Vanessa continued to discuss the Water Quality Management plan along with management strategies identified to implement allocations for bacteria impairments in the watershed.

Alex interjected to ask if everything that Vanessa had gone over was making sense to everyone, there was one “thumbs up” from a RAC member.

10-minute break

Following a break, Alex presented an overview of the draft fiscal impact statement. This included the statutory definition of “small business” as 50 or fewer employees and registered with the state of Oregon, and that DEQ is also considering impacts to small agricultural operations in the basin that aren’t registered as businesses.

Following the review of the draft fiscal impact statement Alex rested on a slide with specific input requests from the RAC. Alex requested discussion from the RAC today, as well as conferring with RAC members’ constituents and subsequent submittal of studies, documentation or other written information to help inform DEQ’s fiscal impact statement. Alex requested that any additional material be submitted to DEQ within two weeks of this meeting, which is by Nov. 23, 2022.

Joe Lemanski asked for a definition of a “significant economic impact.” Alex acknowledged that there is no statutory definition for that. Alex explained DEQ’s approach is to consider the negative or adverse impacts and how to judge significance comes down to the facts at hand. Alex proceeded with an example stating that there are 37 small businesses identified as potentially impacted by the TMDL in the Powder Basin, as well as an unquantified number of non-registered agricultural businesses. If all 37 registered businesses were impacted that would be considered significant, if only a few businesses were impacted that would most likely not be considered significant. Alex paused to ask Joe if her explanation properly answered the question.

Joe thanked Alex for the explanation and stated that it did answer his question. Joe continued, stating that he was looking for clarification on whether this designation was being decided on small businesses as a whole or on individual businesses, being that the term significant is hard to define and could mean one thing to one business and something to different to another. Alex thanked Joe for the input and agreed that this is an extremely difficult thing to define, which is why it is important for the RAC members to gather as much information on these impacts as possible, to best inform the decision.

Doni Bruland asked how DEQ will measure before and after impacts and indicated that Baker County has specific requirements on data that is used to justify changes in land use or natural resource use and that the data used must be firmly anchored in on-the-ground monitoring and trend data, as opposed to computer modeling and other remotely collected data. Alex explained that the process in which DEQ judges the progress of TMDLs is a multi-faceted approach and is done for TMDLs both as orders and as rules. DEQ looks to all of the information provided in annual and five-year reports from the entities implementing management strategies. Alex stated that our goal is for those impacted waterbodies to meet water quality standards and be delisted from the 303(d) list, but that this is a long process that takes years to decades. DEQ uses all the data and information available in the assessments. That includes on-the-ground data collection, as well as utilizing models as additional data is collected to make determinations about meeting standards. Alex

continued by saying that while DEQ does monitor water quality impacts before and after TMDL implementation, the fiscal impact statement is only done once, during the rulemaking process when TMDL's are being developed by rule, and is not revisited. So, there is not a "before and after" evaluation on determining potential fiscal impacts of the TMDL rule.

Tom Demianew asked if DEQ had looked into any extra costs associated with rural business and gave examples of transportation and distance to major distributors. Alex asked if Tom could clarify the question. Alex added that the businesses that were looked at are spread throughout the basin, therefore a rural/urban divide was not factored into the analysis.

Tom brought up other TMDL draft fiscal impact statements in Oregon and indicated the Powder Basin is unique from the Yaquina, for example, in that it is not located near a metropolitan corridor. Tom stated that discussion is needed about the additional fees and costs of transporting supplies to these rural communities for the fiscal impact analysis. Alex encouraged Tom to link rural transportation costs to implementation of the TMDL in his input as a RAC member.

Vanessa clarified that Tom may be referring to elevated cost of getting materials needed to implement management strategies, such as piping and sprinkler irrigation, to these rural communities. Tom used the chat box to thank Vanessa for the clarification. Alex requested RAC members to include any information that could be used to help quantify this (any studies or specific materials) in their input, so that it can be included into the fiscal impact statement.

Doni asked if at any point in the future DEQ will quantify the cost of ongoing water quality impairment to the beneficial uses of the water. Alex acknowledged this is a complex topic without agreement on methods or scope and that DEQ is unlikely to have the information needed to do a water quality beneficial use cost benefit analysis for this rulemaking. DEQ hopes to have better information to do this in the future. Alex briefly mentioned studies in the east and Midwest that are currently being funded by EPA, on the costs of ongoing water quality impairments and the benefits to improving it. Alex also explained that DEQ is receiving additional information on ecosystem cost-benefit analyses through other rulemaking processes that may be helpful.

Alex wrapped up the discussion by thanking everyone for the input and reviewing the next steps in the TMDL process as well as reiterating the need for submitting specific references/documentation to inform the draft fiscal impact statement. DEQ asked for input by Nov. 23, 2022. DEQ will take information and feedback provided in the coming weeks and use these to improve the fiscal impact evaluation. Alex stated that DEQ will provide a redline version of the revised fiscal impact statement for committee review ahead of our next meeting. Following the second meeting, DEQ will provide another two-week period for the committee to provide feedback that may be used in refinement of the fiscal impact statement, the draft TMDL and water quality management plan documents. And that there would be additional opportunities for input on all documents during the public comment and public hearing periods.

To end the meeting, Alex encouraged committee members to reach out to both her and Vanessa with any questions.

DEQ adjourned the meeting at 3:15 p.m.

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.