
Date: March 28, 2022

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Item C: Process for TMDLs by rule and draft schedule 2022-2024 (Informational)
April 6-7, 2022, EQC meeting

Purpose of item DEQ will provide an overview of the Total Maximum Daily Load development process and will describe the TMDLs planned for development over the next nine years, along with DEQ's criteria for proposing rule adoption of specific TMDLs to the commission. DEQ will also describe how and when DEQ will provide information to the commission in preparation for proposed EQC decisions.

Background On Feb. 3, 2022, the commission adopted revisions to rules in Division 42 that conform to state statute allowing TMDLs to be adopted as rules in addition to issuance as orders. At that meeting, commissioners requested additional information regarding the process and proposed schedule of TMDLs by rule. Some commissioners asked about how and when, during the TMDL development process, DEQ would present information to EQC to ensure commissioners will be informed on the technical complexities of TMDLs prior to DEQ's recommendation for adoption.

Key issues DEQ will present information regarding: the TMDL development process; the TMDLs DEQ plans to develop and issue over the next nine years (either by rule or by order); DEQ's process for prioritizing TMDLs for development; and DEQ's criteria for recommendation to EQC for which TMDLs should be adopted by rule or issued by order. In addition, DEQ will discuss the types of policy issues that the commission may be asked to consider; examples of information that may be presented to EQC during TMDL development; the rulemaking process, as it pertains to TMDLs by rule; and a draft schedule of TMDLs proposed for commission action in 2022 through 2024.

DEQ's process and schedule includes annual opportunities for commission input on TMDLs proposed for adoption by rules.

Next steps

DEQ will use the commission's input for development of the process and detailed schedules for TMDLs proposed for rule adoption. DEQ will bring a list of TMDLs recommended for commission action to the May EQC meeting, and ask for commission concurrence with the proposed list of TMDLs to be done by rule. DEQ will continue development of TMDLs currently in process, the majority of which have court-ordered timelines coming due in January 2024 through May 2028.

EQC involvement

DEQ will request commission approval in May 2022 of the TMDLs DEQ proposes for adoption by rule through 2024.

Report compiled by Alex Liverman
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