

Date: April 23, 2025

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Agenda item G, Informational item: Water Quality Triennial Review Workplan May 8-9, 2025, EQC meeting

Why this is important DEQ will inform the commission about the water quality standards Triennial Review and Workplan for July 2025 through June 2028.

Prior EQC involvement DEQ provided a Director's Report item about the Water Quality Standards Triennial Review status to the Environmental Quality Commission meeting on Sept. 27, 2024. More recently, the EQC acted on Marion County's Petition to Amend the Three Basin Rule and directed DEQ to initiate a rulemaking on Nov. 21, 2024. This directive was added to the Triennial Review Workplan.

Background DEQ recently completed a Triennial Review of the state's water quality standards, as the federal Clean Water Act requires. The purpose of the Triennial Review process is to review and set in motion processes to update standards periodically, ensuring they are based on the best available science and protect the designated beneficial uses of state waters. In addition, DEQ may revise standards to improve clarity, consistency or certainty in how the standards are applied in water quality programs. During the review, DEQ invited the public to comment on the water quality standards DEQ should review, revise or adopt over the next three years.

The result of the Triennial Review is a workplan detailing high-priority projects the water quality standards program plans to complete or initiate from July 2025 through June 2028. These projects include rulemakings to revise current standards or adopt new standards, the adoption of Outstanding Resource Waters and projects to develop implementation procedures for DEQ staff. The EQC has no formal action related to development of the Triennial Review workplan. However, this plan contains several rulemaking projects that will involve the EQC.

Process and Workplan DEQ's triennial review process, which includes the following steps, is described in detail in the Triennial Review Report, included as Attachment A to this staff report:

1. The water quality standards program developed a draft project inventory of needed standards work and rated each project as a high, medium or low priority. DEQ rated the projects based on the value or benefit to rule

- implementation or the environment, urgency, level of effort, risk to success, and environmental justice.
2. DEQ staff from all water quality programs reviewed the draft project inventory and priorities and revised them based on the internal comments. DEQ also solicited input from partner state and federal agencies.
 3. DEQ solicited public comment on the draft project inventory and priorities.
 4. After considering public comment, DEQ developed the workplan.
 5. The final Triennial Review Report and 2025-2028 Workplan were submitted to the U.S. Environmental Protection Agency in May 2025 for informational purposes. EPA action is not required on the final workplan.

Public review and comment

DEQ conducted a 53-day public comment period, which reflects an extension of the comment period due to public request. DEQ held an informational public meeting and a public hearing during the comment period. DEQ provided the draft list of priority projects and workplan for public comment from Oct. 14 to Dec. 6, 2024. DEQ will also involve the interested parties during any water quality standards rulemaking projects initiated as part of the workplan. DEQ will solicit assistance and advice from scientific experts for peer review on relevant projects, as appropriate. DEQ notified the nine federally recognized tribes and offered formal or informal consultation on the Triennial Review and gave presentations to the Tribal-State Natural Resources Work Group and the Tribal Cultural Resources Cluster. DEQ met informally with representatives of some of the tribes to answer questions about the triennial review process and some of the specific projects proposed for the workplan. Two tribes and the Columbia River Inter-Tribal Fish Commission provided written comments on the draft workplan.

DEQ received 63 public comment letters from 62 individuals and organizations. Summaries of public comments and DEQ's responses are included in Appendix B of the Triennial Review Report and summarized in the Key Issues section of this staff report.

DEQ received multiple comments supporting all or most of the draft high-priority projects, with commenters agreeing that the work would provide high administrative or environmental value. DEQ changed the priority rating of two projects: Outstanding Resource Water nomination of Steamboat Creek and evaluating selenium criteria implementation procedures. DEQ also added three additional projects to the priority list for future consideration: evaluate options to assess bacteria risks from seafood processing effluent, develop numeric criteria for trash, and adopt narrative antidegradation provisions to attain downstream water quality standards.

2025-2028 Workplan

The Triennial Review Workplan includes the projects listed below, that DEQ plans to complete or initiate from July 2025 through June 2028.

The Triennial Review Report provides information on the scope and expected outcome of each project and the reason it is a priority. In addition, DEQ estimated the amount of time each project will take, and which projects could be conducted concurrently to lay out an estimated schedule, shown in Appendix A of the Triennial Review Report.

High Priority Projects proposed to be started or completed between July 2025 and June 2028 (in no particular order):

1. Develop internal procedures to implement the narrative toxics criterion.
2. Develop narrative interpretation procedures for nuisance/excessive algal growth narrative criteria.
3. Conduct a rulemaking to revise the Three Basin Rule in response to Marion County's rulemaking petition, as directed by the EQC.
4. Develop procedures to implement the sedimentation narrative criterion.
5. Create a web map or GIS layer to inventory waters where DEQ applies dissolved oxygen spawning criteria for resident trout and for tracking future determinations of resident trout spawning habitat.
6. Review and correct designated uses for specific constructed canals that receive treated wastewater to allow for municipal water reuse.
7. Review instances where temperatures cannot attain biologically based numeric criteria and, if necessary, revise the temperature standard to establish site-specific alternatives that fully protect the designated use.
8. Adopt the Illinois River as an Outstanding Resource Water.
9. Adopt Rough and Ready Creek as an Outstanding Resource Water.
10. Develop protective temperature targets for sensitive native cool-water species in the waters designated for "Cool Water Aquatic Life" in the Malheur River basin.
11. Assist cross-program teams in updating the methodology to apply the biological narrative criterion in the assessment and to develop a process to identify pollutant stressors contributing to biological impairment.
12. Revise the antidegradation policy implementation internal management directive.

Appendix C of the Triennial Review Report contains a comprehensive list of all priority projects DEQ considered.

Key issues

Project focus on value-added work

For this Triennial Review, DEQ focused on projects that will provide added value for Oregon waters and DEQ's water quality program implementation, particularly the implementation of narrative criteria. One project was added in response to a petition for rulemaking. Currently, no court orders or EPA disapproval actions require DEQ action. For this reason, the workplan focuses on long-standing needs that DEQ has not addressed due to other obligations and lack of staff resources. DEQ looks forward to working with interested parties and EPA to make progress in these areas, including toxic substances, excessive algal growth and sedimentation.

Timeline and resource considerations

The 2025-2028 Workplan is ambitious and there are uncertainties regarding how much the program will be able to complete within the next three years. Therefore, some of the added projects are included "as time and resources allow," and will be initiated after higher-priority projects are completed or nearing completion. In addition, DEQ could receive unforeseeable factors, such as unforeseen variance requests or

rulemaking petitions, which could alter the Workplan. DEQ expects to start some projects but not complete them before June 2028 and will carry over into the next three years.

Nomination of Outstanding Resource Waters

DEQ received nominations to designate Steamboat Creek, Rough and Ready Creek, Illinois River, and Metolius River as Outstanding Resource Waters. DEQ received comments in support of all nominations. However, DEQ also received some comments opposing the nomination of Steamboat Creek and Metolius River. Due to the nature of the concerns raised, DEQ maintained the low priority rating to designate the Metolius River as an Outstanding Resource Water and changed the priority rating for Steamboat Creek from high to medium because of a lower likelihood of project success.

Petition to revise the Three Basin Rule

Marion County submitted a rulemaking petition to EQC and DEQ on Aug. 30, 2024, requesting amendments to the Three Basin Rule (OAR 340-041-0350). On Nov. 21, 2024, EQC directed DEQ to initiate rulemaking proceedings to revise the Three Basin Rule to allow NPDES permits under limited circumstances consistent with the rule's stated water quality protection objectives of the rule on Nov. 21, 2024. The rulemaking project was added to the Triennial Review workplan as a high priority.

Request to revise the bacteria water quality standard for seafood processors

Commenters requested that DEQ add a project to the 2025-2028 Workplan to revise the bacteria water quality standard as applied in seafood processing permits. Specifically, some commenters suggested DEQ revise the standard to allow mixing zones in seafood processing NPDES permits or to develop alternative recreational water quality criteria for waters impacted primarily by non-human fecal sources. Considering these comments, DEQ has added a medium-priority project to evaluate which of the potential policy options will address the commenters' concerns while ensuring the protection of designated uses. DEQ will initiate this project in the next three years as time and resources allow. Any effort that results in an amendment of the bacteria standards would require a state rulemaking process and approval from the EPA for consistency with federal Clean Water Act requirements before going into effect.

Prioritization changes

Some commenters suggested that certain projects DEQ rated as medium and low priorities should be a higher priority, including projects related to drinking water quality, nuisance algal growth, Outstanding Resource Water screening criteria, review of designated uses in constructed waterbodies proposed for water reuse, and development of wetlands-specific criteria. DEQ considered these comments and adjusted project priorities where applicable.

EQC involvement No EQC action is associated with DEQ’s development of the Triennial Review Report and Workplan. Of the projects identified in the workplan, two rulemaking projects are expected to be proposed for EQC action during this timeframe. In addition, DEQ will update the commission when the program starts or completes a project of interest.

Supporting materials Attachment A: Water Quality Standards 2025- 2028 Triennial Review Report and Workplan

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