



September 20, 2013

Daniel D. Opalski, Director
Office of Water and Watersheds
Environmental Protection Agency, Region 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Margaret Davidson, Acting Director
Office of Ocean and Coastal Resource Management
National Oceanic and Atmospheric Administration
2234 South Hobson Avenue
Charleston, SC 29405-2413

Dear Mr. Opalski and Ms. Davidson:

Attached please find the "Guidance to Urban and Rural Residential Designated Management Agencies for Including Post-Construction Elements in TMDL Implementation Plans". The attached guidance replaces the "Guidance for TMDL Implementation Plan Development for Urban/Rural residential Land Uses within the Coastal Nonpoint Management Area" submitted to EPA and NOAA on July 1, 2013. This guidance is part of the approach being used by DEQ and DLCD to satisfy the CZARA New Development Management Measure.

This guidance was drafted in two parts:

- 1) Guidance on the general elements & process of developing a TMDL Implementation Plan; and
- 2) Specific guidance about how to build and implement a post-construction program.

In the Implementation section (Figure 2 - Implementation Plan Process flowchart) we included a number of other stormwater minimum control measures (Illicit discharge detection & elimination, outreach & education, etc.), as well as, a critically important TMDL element: riparian protection/restoration program. While the guidance does not, at present, include guidance about how to build all these programs, the intent was to create a framework that allows for future programs like these to be developed and added to this guidance. It is this framework and the building block approach that we feel will lead to improving sub-program integration and alignment. This framework will also allow it to be a "living document" and make future updates easy.

The State of Oregon will meet the CZARA New Development Management Measure through a combination of voluntary and regulatory programs. The voluntary program will be implemented by DEQ through its TMDL authorities and the regulatory program will be implemented by DEQ under its permitting authorities.

1. DEQ will finalize its "Guidance to Urban and Rural Residential Designated Management Agencies for Including Post-Construction Elements in TMDL Implementation Plans". Additional edits may be needed after federal review. Timing for the final document will depend upon when comments are received by DEQ.

The guidance will provide information and recommendations for Designated Management Agencies (DMAs). Specifically, the guidance will remind DMAs that they are required under the existing provisions in OAR 340-042-0080 to develop TMDL Implementation Plans in accordance with the applicable Water Quality Management Plan (WQMP). The guidance will also recommend, but not require, that DMA's expand their TMDL Implementation Plans to include control measures applicable to operators of regulated small MS4 sources and the control measures recommended by EPA in the "CZARA New Development Management Measure."

2. The regulatory component will be implemented through the stormwater permitting program and will be implemented once USEPA finalizes the national stormwater rule required per a settlement agreement with the Chesapeake Bay Foundation.
 - a. DEQ will recommend to the EQC adoption of rules as needed to implement the finalized federal national stormwater rule;
 - b. DEQ will use this authority to implement the federal national stormwater rule. DEQ could implement the stormwater rule by taking one or more of the following actions:
 - i. Including performance standards in the 1200C NPDES general construction stormwater permit;
 - ii. Include performance standard language in MS4 phase two general permits and eventually MS4 phase one permits;
 - iii. Develop a new general stormwater permit.
 - c. The permit or permits will incorporate the new development management measure targets in Item 4. A, B, C;
 - d. The permit or permits would be developed consistent with the federal national stormwater rule and anticipated to be required for > 1 acre projects. Smaller projects could also be required to get a permit when DEQ determines the project could be a significant source and affect TSS or hydrology in areas 303(d) listed, have ESA listed species, or water quality sensitive.
3. TMDL Implementation Plans and stormwater permits developed to implement the federal national stormwater rule could include practices consistent with the CZARA new development management measure:

- a. Practices that reduce post-construction development TSS loadings by 80% OR practices that reduce TSS loadings so that the average annual TSS loads are no greater than pre-development loadings; and,
 - b. Maintain post-construction development peak runoff rate and average volume to pre-development levels.
4. DEQ will develop a process and schedule for training and educating DMAs and other stakeholders about the guidance and the new stormwater permits developed to address the CZARA new development management measure.

Please contact us if you have any questions or would like to discuss. We look forward to your response and to continuing to work with you to ensure the protection of Oregon's coastal lands.

Sincerely,



Gregory K. Aldrich, Water Quality Administrator
Oregon Department of Environmental Quality



Patty Snow, Oregon Coastal Management Program Manager
Oregon Department of Land Conservation and Development

Cc: Christine Pysk, EPA Region 10
Jayne Carlin, EPA Region 10