



Ohio Revised Code Section 6111.563 Official draft.

Effective: September 29, 2017

Legislation: House Bill 49 - 132nd General Assembly

(A) Before establishing a final TMDL and plans and actions necessary for TMDL implementation, the director of environmental protection shall prepare an official draft TMDL. The official draft TMDL shall include, at a minimum, both of the following:

- (1) An estimate of the total amount of each pollutant that causes water quality impairment from all sources;
- (2) An estimate of the total amount of pollutants that may be added to the water of the state while still allowing the water of the state to achieve and maintain applicable water quality standards.

(B) The director shall provide all of the following:

- (1) Public notice of the official draft TMDL. At a minimum, the director shall send the public notice to all individual NPDES permit holders that discharge into the water of the state to which the official draft TMDL relates, all significant industrial users listed in the permit holders' annual report, and any other stakeholder that has provided input in accordance with section 6111.562 of the Revised Code.
- (2) A time period for comment of not less than sixty days on the official draft TMDL;
- (3) An opportunity for a public hearing regarding the official draft TMDL if there is significant public interest, as determined by the director.

(C) The director shall specify both of the following in the public notice required under division (B)(1) of this section:

- (1) The water of the state to which the official draft TMDL relates;
- (2) The time, date, and location of the public hearing, if applicable.



(D) After the time period for comment expires on an official draft TMDL, the director shall prepare and make available a written responsiveness summary of the comments.

(E)(1) After conclusion of the public comment period, completion of the responsiveness summary under division (D) of this section, completion of any public hearing, and if the director determines it is appropriate to complete the TMDL, the director shall establish a final TMDL.

(2) The director shall modify a TMDL that is successfully challenged under section 6111.564 of the Revised Code and to which no further appeals are available to conform to the final decision of the highest tribunal of competent jurisdiction. The director then shall submit the modified TMDL to the United States environmental protection agency for approval.

(F) When establishing schedules of compliance in NPDES permits necessary to meet TMDL-based limits or conditions, the director shall consider the likelihood of a legal challenge based on comments received during the development of the TMDL or during the public comment period on a draft NPDES permit. The director also shall consider the likely time before an appeal is concluded.

(G) The director may modify an official draft, final, or United States environmental protection agency approved TMDL. A modification, other than a modification consistent with comments received, is subject to the same notice, comment, and public hearing requirements of divisions (B), (C), and (D) of this section that apply to an official draft TMDL and is subject to rules adopted under division (H) of this section. A revised effluent limit, pretreatment limit, or other term or condition based on such a modification may be challenged in accordance with section 6111.564 of the Revised Code.

(H) Not later than December 31, 2018, the director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish both of the following:

(1) Procedures for providing notice to stakeholders;

(2) Criteria for determining significant public interest in TMDL development.