

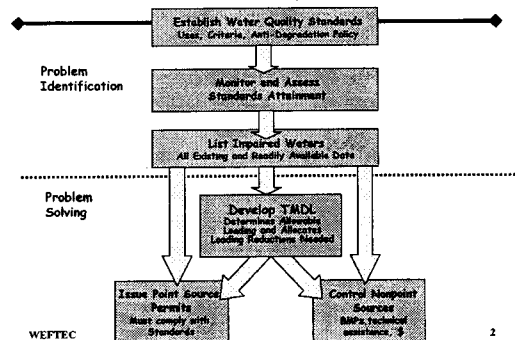
## Improving the TMDL Program

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October, 2001

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## Framework for Restoring Polluted Waters



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## TMDL Program Goals

- ❖ Address National Research Council (NRC) Report findings and recommendations
- ❖ Improve State and EPA performance and credibility under current rules
  - ◆ Integrate standards, monitoring, TMDL, point and nonpoint source implementation
- ❖ Replace 2000 rule with a new rule to
  - ◆ provide a workable framework, and
  - ◆ improve program effectiveness

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## EPA Headquarters TMDL Leaders

- ❖ Don Brady: TMDL Branch Chief
  - ◆ Mike Haire: Current program implementation team
  - ◆ Francoise Brasier: New rule development team
  - ◆ Anne Weinberg: Public outreach/listening team

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## Current Program Implementation

- ❖ Monitoring, Assessment, and Listing Guidance
  - ◆ CALM Guidance
  - ◆ Integrated Water Quality Monitoring and Assessment Report guidance
- ❖ Nonpoint source guidance
- ❖ Point source policy changes
- ❖ TMDL tracking

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## Monitoring, Assessment, and Listing Guidance Objectives

- ❖ Strengthen State monitoring programs
  - ◆ Timely monitoring to support decision making
  - ◆ More waters monitored
  - ◆ Full accounting of all waters and uses
- ❖ Encourage rotating basin approach
- ❖ Strengthen State assessment methodologies
- ❖ Ensure 305(b) and 303(d) consistency
- ❖ Better water program performance measurement (GPRA)
- ❖ Improve public confidence in assessments and lists

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## Consolidated Assessment and Listing Methodology (CALM)

- ❖ Best practices guide for water quality monitoring and assessment
  - ◆ Minimum elements of comprehensive State monitoring programs
    - ▶ Monitoring strategies
    - ▶ Annual work plans
  - ◆ Methodologies for assessing WQS attainment
  - ◆ Methodologies for identifying causes and sources of water quality impairment

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## 2002 Integrated Monitoring and Assessment Report Guidance

1. State assessment methodology based on CALM
2. Integrated list for all State waters (Assessment Units) categorized according to
  - ❖ Water quality standards attainment status
  - ❖ Need for a TMDL
  - ❖ Availability of data and information
3. Data and information supporting the listing of each Assessment Unit
4. Summary of results of public review

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## Integrated List Categories for Assessment Units

- 305 (b) Report
1. Attaining all standards and no standard is threatened
  2. Attaining some standards, no standard is threatened, and insufficient or no data and information available for remaining standards
  3. Insufficient or no data and information to determine if any standard is impaired
  4. Impaired or threatened for one or more standards but not needing a TMDL
    - a. TMDL has been completed
    - b. Expected to meet all standards before the next list is due to be submitted
    - c. Not impaired by a pollutant
  5. Impaired or threatened for one or more standards by a pollutant(s) and requiring a TMDL
- 303(d) List

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## Data and Information for Each Assessment Unit

- ❖ AU Name
- ❖ AU location based on National Hydrography Dataset (NHD)
- ❖ AU type, e.g., rivers, lakes, estuaries, etc.
- ❖ Observed environmental effects, e.g. fish lesions
- ❖ Pollutants causing impairments
- ❖ Sources of pollutants
- ❖ Non-pollutant causes of impairments
- ❖ Lake trophic status
- ❖ TMDL schedules based on priority ranking
- ❖ Monitoring schedules

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## Monitoring Schedules

- ❖ Consistent with State Monitoring Strategies and Annual Plans defined in CALM
- ❖ Coordinated with other monitoring needs
  - ◆ WQS reviews
  - ◆ NPDES
  - ◆ NPS effectiveness
  - ◆ SDWA source water assessments
- ❖ Based on rotating basin approach

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## Additional TMDL Initiatives under Current Rules

- ❖ Nonpoint Source Guidance (319)
  - ◆ Watershed plans incorporating TMDLs
  - ◆ Plan implementation
  - ◆ USDA coordination
- ❖ Point Source policy changes being considered (NPDES)
  - ◆ Reasonable assurance
  - ◆ Ability to change waste load allocations after TMDL approval
- ❖ Improve TMDL development
- ❖ Better tracking of TMDL development and implementation

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## Rulemaking: Recent Actions

- ❖ Draft TMDL Cost Study published in August
  - ◆ Comments due in December
- ❖ Final rule signed 10/12 extending key TMDL dates
  - ◆ Effective date of 2000 rule by 18 months
  - ◆ Due date for 2002 303(d) lists by 6 months
- ❖ On 10/12, Court granted EPA motion to stay litigation on 2000 Rule pending new TMDL rule
- ❖ Will propose new rule in Spring 2002 after extensive outreach/listening
- ❖ Final new rule to be completed in 2003

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## Key Issues for Rulemaking

- ❖ 303(d) Listing
- ❖ Implementation plans
- ❖ Reasonable Assurance
- ❖ Timeframes
- ❖ Stakeholder involvement
- ❖ EPA TMDL role
- ❖ EPA permitting role

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## Rulemaking Issues: 303(d) Listing

- ❖ 2, 4, or 5 year listing cycle
- ❖ Scope of 303(d) list -- 2000 Rule included
  - ◆ Waters impaired by "pollution"
  - ◆ TMDL completed but standards not attained
  - ◆ Waters expected to attain standards without TMDL
- ❖ Threatened waters
- ❖ Delisting waters with completed TMDLs
- ❖ Integration with 305(b)
- ❖ Monitoring schedules
- ❖ EPA approval of listing methodologies
- ❖ Public review of methodologies, 305(b) reports, and 303(d) lists

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## Rulemaking Issues: Implementation Plans

- ❖ 2000 Rule called for implementation plan approved by EPA as part of TMDL
- ❖ What alternatives would give skeptics confidence TMDLs will not be "plans on a shelf"?
  - ◆ Revisions to State Continuous Planning Process (CPP)
  - ◆ Better use of 319, SRF and USDA programs

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## Rulemaking Issue: Reasonable Assurance

- ❖ Current policy and 2000 Rule
  - ◆ Require "reasonable assurance" that nonpoint load reductions can be achieved and will be implemented before load reductions required of point sources can be reduced
- ❖ Alternatives
  - ◆ Require assurance that nonpoint source TMDL load reductions are technically achievable
  - ◆ Establish consistent NPDES permit policies

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## Rulemaking Issue: Timeframes

- ❖ Completion of a TMDL
  - ◆ 2000 Rule
    - ▶ Schedule at even pace over 10-15 years
    - ▶ Within one year of schedule
  - ◆ Current policy: 8-13 years from initial listing
- ❖ Implementing nonpoint source management measures
  - ◆ 2000 rule requires 5 years, where practicable
- ❖ Issuing NPDES permits incorporating TMDLs
  - ◆ 2000 rule requires within ASAP for States, and
  - ◆ within 2 years where EPA is permitting authority
- ❖ Achieving water quality standards
  - ◆ 2000 rule requires 10 years, where practicable

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### Rulemaking Issue: Stakeholder Involvement

- ❖ Should we provide opportunity for more stakeholder involvement?
  - ◆ Allow adjustment of WLA/LA after EPA approval of TMDL
  - ◆ Other Alternatives?

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### Rulemaking Issues: EPA TMDL Role

- ❖ 2000 Rule provided an extension of timeframes for EPA completion of TMDL
  - ◆ To recognize reality of work required and provide public participation
  - ◆ Afford additional time for State to address issues
- ❖ 2000 Rule provided discretion for EPA to develop TMDL where State had not submitted in accordance with schedule
- ❖ Alternatives?

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### Rulemaking Issues: EPA Permitting Role

- ❖ Should we retain permitting provisions of 2000 Rule?
  - ◆ New EPA authority to object to an expired permit
  - ◆ EPA duty to object and reissue a permit within two years of expiration, or completion of a TMDL when the permit has already expired, when a state fails to do issue the permit as required
- ❖ How should we address NPDES permitting on listed waters before TMDL developed?

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### New Rulemaking Outreach/Listening

Location	Theme	Date
Chicago	Implementation/NPS	Oct 22-23
Sacramento	Scope/content	Nov 1-2
Atlanta	EPA role/pace and schedule/Permits	Nov 7-8
Oklahoma City	Listing	Nov 15-16
Washington, DC	All issues	Dec 11

- ❖ Listening panels would include EPA, USDA and a State water quality administrator

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### New Rulemaking: Additional Outreach

- ❖ ASIWPCA TMDL Forums in Merrimack, NH and Seattle
- ❖ Conference calls w/ Regions and States
- ❖ USDA TMDL Workgroup with ASIWPCA participation
- ❖ WEF, AMSA, WGA, and other meetings
- ❖ Meetings with plaintiffs
- ❖ Other meetings on request

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