

MONTANA TMDL PRIORITY SETTING METHODOLOGY FOR BEYOND 2014 (DRAFT; 2-21-14)

Setting TMDL priorities is a process that must include consideration of State Law. This “white paper” includes:

- The relevant section 75-5-702(7) of Montana law
- A method for setting TMDL priorities, with focus on a watershed approach.
- The TMDL priority influencing factors, from state law, grouped based on potential priority influence.

STATE LAW (75-5-702)

(7) In prioritizing water bodies for TMDL development, the department shall, in consultation with the statewide TMDL advisory group, take into consideration the following:

- (a) the beneficial uses established for a water body;
- (b) the extent that natural factors over which humans have no control are contributing to any impairment;
- (c) the impacts to human health and aquatic life;
- (d) the degree of public interest and support;
- (e) the character of the pollutant and the severity and magnitude of water quality standard noncompliance;
- (f) whether the water body is an important high-quality resource in an early stage of degradation;
- (g) the size of the water body not achieving standards;
- (h) immediate programmatic needs, such as waste load allocations for new permits or permit renewals and load allocations for new nonpoint sources;
- (i) court orders and decisions relating to water quality;
- (j) state policies and priorities, including the protection and restoration of native fish when appropriate;
- (k) the availability of technology and resources to correct the problems;
- (l) whether actions or voluntary programs that are likely to correct the impairment of a particular water body are currently in place; and
- (m) the recreational, economic, and aesthetic importance of a particular water body.

(8) The department shall, in consultation with the statewide TMDL advisory group, develop a method of rating water bodies according to the criteria and considerations described in subsection (7) in order to rank the listed water bodies as high priority, moderate priority, or low priority for TMDL development. The department may not rank a water body as a high priority under this section without first validating the data necessary to support the ranking.

TMDL PRIORITY RATING METHOD:

NOTE: Items (a) through (m) within 75-5-702 (7) are referred to as “priority factors”.

STEP 1: WATERSHED SCALE PRIORITIZATION

1. Identify watersheds. TMDL watersheds generally correspond to TMDL Planning Areas.
2. All watershed TMDL priorities are initially set at low priority.
3. Watershed TMDL priority can be changed to high or medium based on priority factors applicable to the watershed. Individual water body factors can influence the watershed priority.
4. All water body TMDL development requirements are set equal to the corresponding watershed priority.
5. This is consistent with the watershed priority setting approach applied toward court order resolution as well as the 303(d) list priority setting requirements captured within Montana’s Integrated Report.

STEP 2: WATERBODY SCALE PRIORITIZATION

1. Only pursued where there is an apparent need to modify an individual waterbody (or water body – pollutant combination) priority developed via Step 1.
2. This can result in one or more water bodies (or water body – pollutant combinations) receiving a TMDL priority that is different from the watershed priority. This implies variable TMDL completion schedules within the watershed. Therefore, this type of priority adjustment should only be pursued where the priority factors or other unique circumstances justify the reduction in TMDL development efficiency and corresponding increase in TMDL development resource requirements.
3. Example situations where this may occur:
 - a. A higher priority may be assigned where the TMDL could have significant impact on a new discharge permit or for a permit that is being re-issued.
 - b. A lower priority may be assigned where significant standards development and/or assessment method development is necessary prior to TMDL development.

TMDL PRIORITY FACTORS (REFERENCE 75-5-702(7))

PRIORITY FACTORS WITH GREATEST POTENTIAL INFLUENCE

Factors linked to Potential Implementation

- (d) the degree of public interest and support;
- (k) the availability of technology and resources to correct the problems;
- (l) whether actions or voluntary programs that are likely to correct the impairment of a particular water body are currently in place;

Factors linked to Program Coordination

- (j) state policies and priorities, including the protection and restoration of native fish when appropriate;
- (h) immediate programmatic needs, such as waste load allocations for new permits or permit renewals and load allocations for new nonpoint sources;

Factors linked to Resource Value

- (f) whether the water body is an important high-quality resource in an early stage of degradation;
- (m) the recreational, economic, and aesthetic importance of a particular water body

Factors linked to Magnitude of Potential Impact to Use

- (c) the impacts to human health and aquatic life;
NOTE: Unless there are unique circumstances, this factor will be considered inherently equivalent for all watershed projects and all water bodies.

PRIORITY FACTORS WITH MEDIUM POTENTIAL INFLUENCE

Factors linked to Impairment Characteristics

- (e) the character of the pollutant and the severity and magnitude of water quality standard noncompliance;
NOTE: This factor will be considered inherently equivalent except that sediment, temperature and metals TMDLs in warm water streams may be of lower priority until further standards or assessment method development; unless this work is integrated within the TMDL development.

Factors linked to Court Determinations

- (i) court orders and decisions relating to water quality;
NOTE: This is still a priority influence because of the need to avoid future court orders. Montana will need to maintain a TMDL pace that chips away at the 303 list, which will be close to 900 TMDLs still required after 2014.

PRIORITY FACTORS WITH LOWEST POTENTIAL INFLUENCE

Factors linked to General Waterbody Characteristics

- (a) the beneficial uses established for a water body;

NOTE: Unless there are unique circumstances, this factor will be considered inherently equivalent for all watershed projects and all water bodies.

- (b) the extent that natural factors over which humans have no control are contributing to any impairment;

NOTE: Unless there are unique circumstances, this factor will be considered inherently equivalent for all watershed projects. If an impairment is predominately due to these type of conditions, then it is possibly an assessment or standards issue that can be addressed outside of TMDL development.

- (g) the size of the water body not achieving standards;

NOTE: Unless there are unique circumstances associated with size only, this factor will be considered inherently equivalent for all watershed projects.