EPA TOTAL MAXIMUM DAILY LOAD (TMDL) REVIEW SUMMARY

TMDL:

ATTAINS TMDL ID:

LOCATION:

IMPAIRMENTS/POLLUTANTS:

Waterbody/Pollutants Addressed in this TMDL Action

Assessment Unit ID	Waterbody Description	Pollutants Addressed

BACKGROUND:

APPROVAL RECOMMENDATIONS:

TMDL Approval Summary	
Number of TMDLs Approved:	
Number of Causes Addressed by TMDLs:	

REVIEWERS:

The following review summary explains how the TMDL submission meets the statutory and regulatory requirements of TMDLs in accordance with Section 303(d) of the Clean Water Act (CWA), and EPA's implementing regulations in 40 C.F.R. Part 130.

EPA TMDL REVIEW

This TMDL review document includes EPA's guidelines that summarize the currently effective statutory and regulatory requirements relating to TMDLs (CWA Section 303(d) and 40 C.F.R. Part 130). These TMDL review guidelines are not themselves regulations. Any differences between these guidelines and EPA's regulations should be resolved in favor of the regulations themselves. The italicized sections of this document describe the information generally necessary for EPA to determine if a TMDL submittal fulfills the legal requirements for approval. The sections in regular type reflect EPA's analysis of the state's compliance with these requirements. Use of the verb "must" below denotes information that is required to be submitted because it relates to elements of the TMDL required by the CWA and by regulation.

1. Identification of Waterbody, Pollutant of Concern, Pollutant Sources, and Priority Ranking

The TMDL submittal must clearly identify (40 C.F.R. §130.7(c)(1)):

- *the waterbody as it appears on the State's/Tribe's 303(d) list;*
- *the pollutant for which the TMDL is being established; and*
- *the priority ranking of the waterbody.*

The TMDL submittal must include (40 C.F.R. §130.7(c)(1); 40 C.F.R. §130.2):

- *an identification of the point and nonpoint sources of the pollutant of concern, including location of the source(s) and the quantity of the loading (e.g., lbs. per day);*
- *facility names and NPDES permit numbers for point sources within the watershed; and*
- *a description of the natural background sources, and the magnitude and location of the sources, where it is possible to separate natural background from nonpoint sources.*

This information is necessary for EPA's review of the load and wasteload allocations, which are required by regulation.

The TMDL submittal should also contain a description of any important assumptions made in developing the TMDL, such as:

- *the spatial extent of the watershed in which the impaired waterbody is located;*
- *the assumed distribution of land use in the watershed (e.g., urban, forested, agriculture);*
- *population characteristics, wildlife resources, and other relevant information affecting the characterization of the pollutant of concern and its allocation to sources;*
- *present and future growth trends, if taken into consideration in preparing the TMDL (e.g., the TMDL could include the design capacity of a wastewater treatment facility); and*
- *an explanation and analytical basis for expressing the TMDL through surrogate measures, if applicable. Surrogate measures are parameters such as percent fines and turbidity for sediment impairments; chlorophyll a and phosphorus loadings for excess algae; length of riparian buffer; or number of acres of best management practices.*

Assessment:

2. Description of the Applicable Water Quality Standards and Numeric Water Quality Target

The TMDL submittal must include:

- *a description of the applicable State/Tribal water quality standard, including the designated use(s) of the waterbody, the applicable numeric or narrative water quality criterion, and the antidegradation policy (40 C.F.R. §130.7(c)(1)); and*
- *a numeric water quality target for each TMDL. If the TMDL is based on a target other than a numeric water quality criterion, then a numeric expression must be developed from a narrative criterion and a description of the process used to derive the target must be included in the submittal (40 C.F.R. §130.2(i)).*

EPA needs this information to review the loading capacity determination, and load and wasteload allocations, which are required by regulation.

Assessment:

3. Loading Capacity - Linking Water Quality and Pollutant Sources

The TMDL submittal must include the loading capacity for each waterbody and pollutant of concern. EPA regulations define loading capacity as the greatest amount of a pollutant that a water can receive without violating water quality standards (40 C.F.R. §130.2(f)).

The TMDL submittal must:

- *describe the method used to establish the cause-and-effect relationship between the numeric target and the identified pollutant sources. In many instances, this method will be a water quality model;*
- *contain documentation supporting the TMDL analysis, including the basis for any assumptions; a discussion of strengths and weaknesses in the analytical process; and results from any water quality modeling; and*
- *include a description and summary of the water quality data used for the TMDL analysis.*

EPA needs this information to review the loading capacity determination, and load and wasteload allocations, which are required by regulation (40 C.F.R. §130.2).

The full water quality dataset should be made available as an appendix to the TMDL or as a separate electronic file. Other datasets used (e.g., land use, flow), if not included within the TMDL submittal, should be referenced by source and year. The TMDL analysis should make use of all readily available data for the waterbody unless the TMDL writer determines that the data are not relevant or appropriate.

The pollutant loadings may be expressed as either mass-per-time, toxicity or other appropriate measure (40 C.F.R. §130.2(i)). Most TMDLs should be expressed as daily loads (USEPA. 2006a, USEPA. 2007). If the TMDL is expressed in terms other than a daily load (e.g., annual load), the submittal should explain why it is appropriate to express the TMDL in the unit of measurement chosen.

The TMDL submittal must describe the critical conditions and related physical conditions in the waterbody as part of the analysis of loading capacity (40 C.F.R. §130.7(c)(1)). The critical condition can be thought of as the "worst case" scenario of environmental conditions (e.g., stream flow, temperature, loads) in the waterbody in which the loading expressed in the TMDL for the pollutant of concern will continue to meet water quality standards. TMDLs should define the applicable critical conditions and describe the approach used to estimate both point and nonpoint source loads under such critical conditions.

Assessment:

4. Load Allocation

The TMDL submittal must include load allocations (LAs). EPA regulations define LAs as the portion of a receiving water's loading capacity that is attributed either to one of its existing or future nonpoint sources of pollution and to natural background sources. Load allocations may range from reasonably accurate estimates to gross allotments (40 C.F.R. §130.2(g)). Where possible, separate LAs should be provided for natural background and for nonpoint sources.

In the rare instance that a TMDL concludes that there are no nonpoint sources or natural background for a pollutant, the load allocation must be expressed as zero and the TMDL should include a discussion of the reasoning behind this decision.

Assessment:

5. Wasteload Allocations

The TMDL submittal must include wasteload allocations (WLAs). EPA regulations define WLAs as the portion of a receiving water's loading capacity that is allocated to existing and future point sources (40 C.F.R. §130.2(h)). If no point sources are present or if the TMDL recommends a zero WLA for point sources, the WLA must be expressed as zero. If the TMDL recommends a zero WLA after considering all pollutant sources, there must be a discussion of the reasoning behind this decision, since a zero WLA implies an allocation only to nonpoint sources and natural background will result in attainment of the applicable water quality standards, and all point sources have no measurable contribution.

The individual WLAs may take the form of uniform percentage reductions or individual mass based limitations for dischargers where it can be shown that this solution meets WQSs and does not result in localized impairments. In some cases, WLAs may cover more than one discharger (e.g., if the source is contained within a general permit).

Assessment:

6. Margin of Safety

*The TMDL submittal must include a margin of safety (MOS) to account for any lack of knowledge concerning the relationship between load allocations, wasteload allocations and water quality (CWA §303(d)(1)(C), 40 C.F.R. §130.7(c)(1)). The MOS may be **implicit** or **explicit**.*

*If the MOS is **implicit**, the conservative assumptions in the analysis that account for the MOS must be described. If the MOS is **explicit**, the loading set aside for the MOS must be identified.*

Assessment:

7. Seasonal Variation

The TMDL submittal must be established with consideration of seasonal variations. The method chosen for including seasonal variations in the TMDL must be described (CWA §303(d)(1)(C), 40 C.F.R. §130.7(c)(1)).

Assessment:

8. Reasonable Assurances

When a TMDL is developed for waters impaired by both point and nonpoint sources, EPA guidance (USEPA. 1991) and court decisions say that the TMDL must provide reasonable assurances that nonpoint source control measures will achieve expected load reductions in order for the TMDL to be approvable. This information is necessary for EPA to determine that the TMDL, including the load and wasteload allocations, has been established at a level necessary to implement the applicable water quality standards (CWA §303(d)(1)(C), 40 C.F.R. §130.7(c)(1)).

EPA guidance (USEPA. 1997) also directs Regions to work with States to achieve TMDL load allocations in waters impaired only by nonpoint sources. However, EPA cannot disapprove a TMDL for nonpoint source-only impaired waters, which do not have a demonstration of reasonable assurance that LAs will be achieved, because such a showing is not required by current regulations.

Assessment:

9. Monitoring Plan

The TMDL submittal should include a monitoring plan for all:

- *Phased TMDLs; and*
- *TMDLs with both WLA(s) and LA(s) where reasonable assurances are provided.*

Under certain circumstances, a phased TMDL should be developed when there is significant uncertainty associated with the selection of appropriate numeric targets, estimates of source loadings, assimilative capacity, allocations or when limited existing data are relied upon to develop a TMDL. EPA guidance (USEPA. 2006b) recommends that a phased TMDL submittal, or a separate document (e.g., implementation plan), include a monitoring plan, an explanation of how the supplemental data will be used to address any uncertainties that may exist when the phased TMDL is prepared and a scheduled timeframe for revision of the TMDL.

For TMDLs that need to provide reasonable assurances, the monitoring plan should describe the additional data to be collected to determine if the load reductions included in the TMDL are occurring and leading to attainment of water quality standards.

EPA guidance (USEPA. 1991, USEPA. 2008a) recommends post-implementation monitoring for all TMDLs to determine the success of the implementation efforts. Monitoring plans are not a required part of the TMDL and are not approved by EPA but may be necessary to support the decision rationale for approval of the TMDL.

Assessment:

10. Implementation

EPA policy (USEPA. 1997) encourages Regions to work in partnership with States/Tribes to achieve nonpoint source load allocations established for 303(d)-listed waters impaired by nonpoint sources. Regions may assist States/Tribes in developing implementation plans that include reasonable assurances that nonpoint source LAs established in TMDLs for waters impaired solely or primarily by nonpoint sources will in fact be achieved. The policy recognizes that other relevant watershed management processes may be used in the TMDL process. EPA is not required to and does not approve TMDL implementation plans.

EPA encourages States/Tribes to include restoration recommendations (e.g., framework) in all TMDLs for stakeholder and public use to guide future implementation planning. This could include identification of a range of potential management measures and practices that might be feasible for addressing the main loading sources in the watershed (see USEPA. 2008b, Chapter 10). Implementation plans are not a required part of the TMDL and are not approved by EPA but may be necessary to support the decision rationale for approval of the TMDL.

Assessment:

11. Public Participation

EPA policy is that there must be full and meaningful public participation in the TMDL development process. Each State/Tribe must, therefore, provide for public participation consistent with its own continuing planning process and public participation requirements (40 C.F.R. §25.3 and §130.7(c)(1)(ii)).

The final TMDL submittal must describe the State/Tribe's public participation process, including a summary of significant comments and the State/Tribe's responses to those comments (40 C.F.R. §25.3 and §25.8). Inadequate public participation could be a basis for disapproving a TMDL; however, where EPA determines that a State/Tribe has not provided adequate public participation, EPA may defer its approval action until adequate public participation has been provided for, either by the State/Tribe or by EPA.

Assessment:

12. Submittal Letter

The final TMDL submittal must be accompanied by a submittal letter that explicitly states that the submittal is a final TMDL submitted under Section 303(d) of the Clean Water Act for EPA review and approval. This clearly establishes the State's/Tribe's intent to submit, and EPA's duty to review, the TMDL under the statute (40 C.F.R. §130.7(d)(1)). The final submittal letter should contain such identifying information as the waterbody name, location, assessment unit number and the pollutant(s) of concern.

Assessment:

References

USEPA. 1991. *Guidance for water quality-based decisions: The TMDL process.* EPA 440-4-91-001. Office of Water, Assessment and Watershed Protection Division and Office of Wetlands, Oceans, and Watersheds, U.S. Environmental Protection Agency, Washington, DC.

USEPA. 1997. *New policies for establishing and implementing Total Maximum Daily Loads (TMDLs)*. Office of Water, U.S. Environmental Protection Agency, Washington, DC.

USEPA. 2006a. *Establishing TMDL "Daily" Loads in Light of the Decision by the U.S. Court of Appeals for the D.C. Circuit.* Office of Water, Office of Wetlands, Oceans, and Watersheds, U.S. Environmental Protection Agency, Washington, DC.

USEPA. 2006b. *Clarification Regarding "Phased" Total Maximum Daily Loads.* Office of Water, Office of Wetlands, Oceans, and Watersheds, U.S. Environmental Protection Agency, Washington, DC.

USEPA. 2007. *Options for Expressing Daily Loads in TMDLs - DRAFT.* Office of Water, Office of Wetlands, Oceans, and Watersheds, U.S. Environmental Protection Agency, Washington, DC.

USEPA. 2008a. *Handbook for Developing Watershed TMDLs – DRAFT.* Office of Water, Office of Wetlands, Oceans, and Watersheds, U.S. Environmental Protection Agency, Washington, DC.

USEPA. 2008b. *Handbook for Developing Watershed Plans to Restore and Protect our Waters.* EPA-841-B-08-002. Office of Water, Environmental Protection Agency, Washington, DC.

USEPA. 2010. *National Pollutant Discharge Elimination System (NPDES) Permit Writers' Manual, Chapter 6, Water Quality-Based Effluent Limitations.* EPA-833-K-10-001. Office of Water, Office of Wastewater Management, Water Permits Division, Washington, DC.

USEPA. 2012. *Considerations for Revising and Withdrawing TMDLs – DRAFT.* Office of Water, Office of Wetlands, Oceans, and Watersheds, U.S. Environmental Protection Agency, Washington, DC.

USEPA. 2014. *Water Quality Standards Handbook: Chapter 1: General Provisions.* EPA-820-B-14-008. EPA Office of Water, Office of Science and Technology, Washington, DC.

USEPA. 2017. *Water Quality Standards Handbook: Chapter 3: Water Quality Criteria.* EPA-823-B-17-001. EPA Office of Water, Office of Science and Technology, Washington, DC.