

Summary of Key Issues and Actions from TMDL Forums

as discussed by participating State, Interstate, & USEPA TMDL Managers

Austin, TX April 18-20, 2001 (Region V, VI, & VII States)

Savannah, GA May 23-25, 2001 (Region III & IV States)

In April and May, State, Interstate, and USEPA TMDL managers met to share experiences and discuss ways to enhance their efforts to develop and implement Total Maximum Daily Loads (TMDLs) under Section 303(d) of the Clean Water Act. Below is a summary of those discussions.

General Observations:

- ◆ It is important to integrate TMDLs into the entire water quality program by identifying disconnects and building the necessary linkages to the monitoring, standards, nonpoint, and point source programs.
 - TMDL managers should discuss assessment methods, understand how many TMDLs need to be completed based on the current list/timelines, and prepare for the number to increase as assessments are completed. The complete status of water bodies will be better understood over time.
 - Some water quality standards (i.e. USEPA §304(a) criteria) and policies (e.g. weight of evidence and independent applicability) need further work to help in the effort to set appropriate goals, develop TMDLs, and track attainment/compliance. State and Interstate agencies should exercise flexibility in articulating water quality standards (WQS) and designated uses. Tiered gradations of uses are one example. Simplified approaches are needed for conducting use attainability analyses.
 - There is an apparent disconnect between the level of effort TMDLs require, the risk involved, and the implementation cost for pathogens. This needs to be explored, and best management practice (BMP) effectiveness monitoring is needed.
 - Point source/permitting issues need to be recognized and addressed. These include: dealing more effectively with stormwater issues, building flexibility into the waste load allocation/load allocation process, reconciling timing/deadlines, and improving the crosswalk between TMDLs and permit decision making (e.g., dealing with de minimus sources).
 - The §319 nonpoint source (NPS) program should support TMDL development and implementation.

- ◆ Public participation and perception are important to building support. Increased public involvement could improve the process of determining appropriate beneficial uses. More key partners need to come to the table.

- ◆ TMDLs are often expressed in simple and straightforward ways. The program will benefit if TMDL managers can continue this approach.

- ◆ Rather than looking to USEPA to resolve issues, TMDL managers should work together to determine *what* actions should be undertaken to improve the program, *who* needs to take the actions, *how* the work should be accomplished, and *when* it should be done. Collectively, TMDL managers should set priorities and pace the workload.
- ◆ On certain issues, national dialogue may help promote decision-making at the State and watershed levels (e.g. regarding particularly difficult urban problems, uncontrollable sources).
- ◆ TMDL managers should build on successful efforts and take advantage of the key linkages that TMDLs have to other initiatives. This can promote public understanding and momentum.

Suggested Innovations and Improvements:

Strategic

- ◆ Take more holistic as well as phased/iterative approaches. Adaptive management has a major role. TMDL managers should strive for an incremental progress as opposed to perfection.
- ◆ Consider and begin implementation from the outset of TMDL development.
- ◆ Replace the command and control approach with cooperative approaches.
- ◆ Focus on waterbody needs, not TMDLs *per se*.
- ◆ Make a concerted effort to avoid having TMDLs become another shelved plan that collects dust.
- ◆ Anticipate and deal with jurisdictional differences.

Public Support

- ◆ View public participation as an asset.
- ◆ Create better processes to get more buy-in from start to finish.
- ◆ Build Partnerships early and strive for balance.
- ◆ Make the TMDL process more transparent.
- ◆ Recognize that the desire to avoid the need for TMDLs can be a creative incentive for involvement.
- ◆ Develop goals that the public can understand and support.

Technical

- ◆ Encourage and share more creative expressions of TMDLs.
- ◆ Develop more workable approaches to deal with uncertainty:
 - TMDL managers should be able to mitigate nonpoint source (NPS) pollution over time, considering the relationship BMP effectiveness has to setting local allocations and tracking results over time.
 - The appropriate role of uncertainty regarding margins of safety should be clarified.
- ◆ Use better methods that help stakeholders to grasp the broad picture of watershed problem solving.
- ◆ Build a better understanding among TMDL managers what should be approvable from watershed to watershed, State to State, and region to region.
- ◆ Factor groundwater concerns and their relationship to surface water quality into TMDL decision making. Information on groundwater TMDLs should be shared.
- ◆ Articulate and address more fully WQS issues, including:
 - Using narrative criteria to set TMDL targets;
 - Dealing more realistically with high-flow situations; and
 - Overcoming deficiencies in numeric criteria (e.g. nutrients, pathogens, clean sediment).
- ◆ Develop a workable approach to solving pathogen problems in waterbodies.

Efficiency and Effectiveness

- ◆ Make maximum use of existing documents and work underway.
 - Take advantage of existing watershed activities.
 - Use ongoing §319 and other projects to serve as TMDLs. Link the results of other efforts back to a TMDL, fill in the gaps, and tie activities/programs together.
 - Make creative/effective use of existing data and pre-existing commitments.
- ◆ Consider 3rd-party TMDLs (in whole or in part)
 - Stakeholder involvement is beneficial.
 - Clarity is important.
 - ◆ Memoranda of agreement are useful at the outset.
 - ◆ “How-to” guides and road maps are useful.
 - ◆ Documentation is important.
- ◆ Think bottom-up from management practices to solve problems.
- ◆ Maintain a results-oriented focus.
- ◆ Recognize deadlines are a motivational tool.

Training

- ◆ Increase networking and share experience among TMDL managers.
- ◆ Identify training needs. Suggested topics include:
 - Administrative and other checklists, including records retention;
 - Outreach skills such as those of facilitators;
 - Technical writing (templates);
 - Improved access to technical expertise/resources (e.g. hotline for highly detailed technical questions);
 - Access to research assistance (e.g. for a literature search);
 - Learning from other programs; and
 - Access to outside resources/experts.
- ◆ Take training to those in need.

Other Suggestions

- ◆ Do not lose sight of the importance of protecting waters so that they do not require TMDLs.
 - Given credit for pollution prevention.
 - Recognize anti-degradation measures as a useful tool.
- ◆ Use key linkages to move the TMDL process along. Considering TMDLs in the context of the big picture gives the public a broader view of the issue, possible options/tradeoffs and how programs can fit together, for example, between:
 - TMDLs and smart growth.
 - State authorities and the local ability to respond to growth, incorporate antidegradation considerations, and develop tools to deal with pollution.
 - Comprehensive local plans and TMDLs.
 - The amount of impervious surface and protection of aquatic life.
 - TMDLs and source water protection.
 - Water quality standards, management tools, and growth (e.g., impact of on-site/decentralized systems). WQS goals should be high, fair and attainable.
- ◆ Better understand the pollutant capacity of a larger number of waters
- ◆ Identify effective ways to deal with declining State budgets.

Short Term Action Items for TMDL Managers:

- ◆ Develop guidance on the year 2002 §303(d) list to help facilitate the process (e.g., for monitored vs. impaired portion of list).
- ◆ Hold regularly a dialogue among USEPA and State/Interstate TMDL managers:
 - Fecal coliform could be the initial focus, using the Office of Science and Technology's (OST) bacteria guidance as a starting point.
 - Consider related economic, social, and other issues

- Solicit and consider input from States and Federal Agencies.
- ◆ Explore further a two-step TMDL process.
- ◆ Review and comment on the draft FY 2002 funding guidance for §319.
- ◆ Work together to address outstanding issues regarding the relationship between permit decision-making and TMDLs to facilitate better decision-making.
- ◆ Develop a common understanding of adaptive management and its relationship to TMDL development and implementation.
- ◆ Consider creating an Innovation Workgroup (e.g. for monitoring, management, funding, modeling, stakeholder involvement, and technical, programmatic and regulatory needs).
- ◆ Consider whether some pollutants or issues need a more holistic/regional approach (e.g. related to models, assessment and TMDLs development), rather than tackling them state by state, watershed by watershed.
- ◆ Keep TMDL managers informed on developments regarding the TMDL rule.
- ◆ Work together to make the TMDL process more flexible in a consistent predictable manner.
 - Recognize the importance of monitoring and accountability for results.
- ◆ Work together to help bridge the funding gap.
- ◆ Explore other ways of reaching water quality objectives in addition to TMDLs.