



ENVIRONMENTAL LAW INSTITUTE®

AN INDEPENDENT, NON-PARTISAN ENVIRONMENTAL EDUCATION AND POLICY RESEARCH CENTER.

2011 NATIONAL TRAINING WORKSHOP ON CWA 303(d) LISTING & TMDLS

**MEETING CHALLENGES TO WATER QUALITY MANAGEMENT
WITH NEW TOOLS & IMPROVED COORDINATION**

National Conservation Training Center
Shepherdstown, West Virginia
April 26-28, 2011

TRAINING WORKSHOP AGENDA

(WITH VISION, GOALS, & OUTPUTS)

**This project made possible through a cooperative agreement with the
United States Environmental Protection Agency**



VISION FOR THE TRAINING WORKSHOP

To provide an opportunity for state, tribal, and territorial participants from Clean Water Act Section 303(d) Listing and TMDL Programs to learn about—and to discuss with one another and federal counterparts—concrete strategies for addressing significant challenges currently facing water quality management, from specific pollutants and sources to programmatic obstacles.

GOALS

- Identify, share, and learn about **current best practices** in listing, TMDL development, and TMDL implementation that effectively address water quality impairments.
- Identify **opportunities to improve coordination** among state, tribal, territorial, and federal agencies with authority relating to water quality.
- Advance the **mutual understanding** among the states and EPA of the challenges facing the program, including policy and regulation, and potential solutions to them.
- Identify and better understand **immediate and long-term actions** that should be taken at the listing, TMDL development, and TMDL implementation stages and at state, regional, and EPA headquarters levels to achieve those solutions.
- Enhance the **network of listing and TMDL professionals**: expanding and improving inter-state communication, identifying experts on specific topics, and promoting the sharing of resources and better understanding of experiences.

OUTPUTS

No. 1: A list of discrete state and EPA issues and actions related to matters covered at the training workshop that, if addressed, could be expected to advance state and federal efforts to meet water quality standards.

No. 2: Evaluation of current mechanisms for exchanging information (*e.g.*, TMDL listserv, workshops) and identification of other means that may be helpful or necessary, including identifying states and tribes with a particular issue area interest.

No. 3: Findings, derived from remarks made by state, tribal, territorial, and federal personnel during the training workshop, that EPA may wish to consider in the context of future action (*e.g.*, developing guidance) on matters covered at the training workshop.

No. 4: A final report summarizing presentations and commentary from the training workshop. The report will include a summary document that identifies key findings from the event and highlights areas of agreement and disagreement regarding the subject matter covered.

AGENDA

Monday, April 25

Arrival, Check-In, & Registration

- | | |
|-------------------|---|
| 3:00 pm – 8:00 pm | NCTC Check-In and Training Workshop Registration
Main Lobby
Guest Lodge |
| 5:30 pm – 7:00 pm | Dinner (Open)
Commons Dining Room |
| 8:00 pm – 9:00 pm | Informal Welcome
Guest Lodge Lounge Area |

Tuesday, April 26

***2011 Training Workshop on Listing & TMDLs
Day 1: Challenging Pollutants and Pathways***

6:30 am – 8:00 am

Breakfast (Open)
Commons Dining Room

8:00 am – 9:00 am

**Welcome, Introductions, Updates, and Training Workshop
Overview**
Auditorium

Greeting and Introductions

Bruce Myers, ELI

Opening Remarks

Denise Keehner, EPA HQ

Progress on Listings and TMDLs

John Goodin, EPA HQ

Training Workshop Overview

Adam Schempp & Sandra Nichols, ELI

9:00 am – 10:00 am

**Session #1
Nutrients (Part I)**
Auditorium

Facilitator

Bruce Myers, ELI

Session Coordinator

Kathy Stecker, NC

Panel Presentations and Q&A

**(1) Status of Addressing Nutrients under the CWA 303(d)
Program as Well as Key Recent EPA Actions**

Eric Monschein, EPA HQ

(2) Nutrients in Maine: Criteria Development, Listing and TMDLs

Susan Davies, ME

(3) New Mexico's Approach to Nutrient Impairments and TMDLs

Heidi Henderson, NM

**(4) Overview of EPA's Promulgated Numeric Nutrient Criteria in
Florida**

Julie Espy, FL

Session #1 Outcomes:

- *Participants will better understand several different state approaches used to address nutrients under the CWA 303(d) program.*
- *Participants will better understand key recent EPA actions regarding nutrients.*

10:00 am – 10:30 am Morning Break

10:30 am – 12:00 pm **Session #2**
Nutrients (Part II)
Auditorium

Facilitator
Bruce Myers, ELI

Session Coordinator
Kathy Stecker, NC

Plenary Discussion

Session #2 Outcomes:

- *Participants will learn how other states, tribes, and EPA view overcoming the challenges of nutrient-related listings with and without numeric nutrient criteria.*
- *Participants will learn how other states, tribes, and EPA view overcoming the challenges of nutrient-related TMDL development with and without numeric nutrient criteria.*
- *Participants will be familiar with how well certain policies and approaches have worked in practice, what led to success, what hasn't, and why.*
- *Participants will set the stage for continued discussion among state and tribal water quality agencies and with EPA about addressing nutrients in 303(d) lists and TMDLs.*

Discussion Questions: How are narrative nutrient criteria used in TMDL development? Given that not all states have numeric nutrient criteria for N or P, what are the approaches used for assessment of waters or development of TMDLs when: a) there are only narrative nutrient criteria; b) when there are also response criteria (such as dissolved oxygen, chlorophyll a, water clarity, or biological condition)? What are their associated advantages and challenges? How are states achieving reductions in nutrients in the absence of numeric nutrient criteria? How does one identify the pollutant of concern and TMDL loading target when waters are listed based on narrative criteria

or response criteria? In particular, how does one determine if a nutrient pollutant is the cause of aquatic life use impairment? What roles do nutrient TMDLs have in implementing EPA's recent state nutrient reduction framework? In what situations would development of numeric nutrient criteria expedite nutrient control? What further assistance do states need from EPA to address nutrient impairments?

12:00 pm – 1:00 pm

Lunch
Commons Dining Room

1:00 pm – 3:00 pm

Session #3
Downstream Impacts / Multi-jurisdictional TMDLs
Auditorium

Facilitator
Sandra Nichols, ELI

Session Coordinator
Tom Stiles, KS

Panel Presentations and Q&A

(1) St. Louis River Cooperative TMDL

Nancy Schuldt, Fond du Lac Reservation

(2) Salinity TMDLs on the Arkansas River between Colorado and Kansas

Phil Hegeman, CO, and Tom Stiles, KS

(3) The Chesapeake Bay TMDL: A Pollution Diet to Restore Clean Water

Jennifer Sincock, EPA Region 3

(4) Process and Strategy Development for Maryland's Bay TMDL Phase I and Phase II Watershed Implementation Plan

Lee Currey, MD

(5) Chesapeake Bay TMDL in New York

Angus Eaton, NY

Session #3 Outcomes:

- *Participants will better understand the obstacles to and opportunities for developing and implementing multi-jurisdictional TMDLs in practice from examples of ongoing efforts.*
- *Participants will be more familiar with principles for downstream protection in Clean Water Act programs.*
- *Participants will better understand the implications of these principles for TMDL development, permits, and standards.*

Discussion Questions: How did the need for a multi-jurisdictional TMDL arise? How have pollutant loads at the jurisdictional boundary been determined? Have there been any issues to resolve regarding different water quality standards between jurisdictions? How have TMDLs assigned responsibility for WLAs and NPS to the upstream jurisdiction? How has Reasonable Assurance been incorporated into these TMDLs? How have jurisdictions coordinated with one another on TMDL development and implementation, and what role has EPA had with the TMDLs?

3:00 pm – 3:30 pm

Afternoon Break

3:30 pm – 5:30 pm

Session #4
Stormwater
Auditorium

Facilitator
Adam Schempp, ELI

Session Coordinator
Helen Bresler, WA

Panel Presentations and Q&A

(1) New York State DEC Stormwater Permits: TMDL Conditions
Angus Eaton, NY

(2) MS4s and TMDLs: North Carolina's Approach
Kathy Stecker, NC

(3) The 2010 Stormwater Memo
Jamie Fowler, EPA HQ

Session #4 Outcomes:

- *Participants will learn new strategies and receive updates on how some states are addressing stormwater through TMDL development and implementation.*
- *Participants will better understand the perspectives of EPA regarding the stormwater guidance.*

Discussion Questions: What approaches looked promising but have run into unforeseen obstacles? What else might work? How should allocations for stormwater be developed and implemented? Will those allocations establish permit limits? How do you develop categorical WLAs with limited resources? How do you put WLAs into TMDLs to determine if reductions are needed? Is there any flexibility in the new memo regarding MS4 wasteload allocations? What is EPA's

expectation for stormwater load reduction in Highly Urban areas? Are any states changing their practices as result of the memo? Could trading between MS4s and nonpoint sources be functional and productive?

5:30 pm – 6:00 pm

Open

6:00 pm – 7:00 pm

Dinner
Commons Dining Room

7:00 pm – 8:00 pm

Bonfire

Wednesday, April 27

*2011 Training Workshop on Listing & TMDLs
Day 2: Approaches to Effective Outcomes*

6:30 am – 8:00 am Breakfast (Open)
Commons Dining Room

8:00 am – 10:00 am **Session #5**
Reasonable Assurance
Auditorium

Facilitator
Bruce Myers, ELI

Session Coordinators
Menchu Martinez & Michael Haire, EPA HQ

Panel Presentations and Q&A

(1) Introduction to Reasonable Assurance Concepts

Menchu Martinez, EPA HQ

**(2) “Reasonably Sure” that Good Things Will Happen: Ohio's
Olentangy TMDL**

Trinka Mount, OH

**(3) Demonstrating Reasonable Assurance in Idaho TMDLs: Fact,
Fiction & Warm Fuzzies**

Marti Bridges, ID

Session #5 Outcomes:

- *Participants will learn how some states have overcome the challenges of demonstrating reasonable assurance.*
- *Participants will begin discussion on how to address reasonable assurance in the 303(d) program.*

Discussion Questions: What are some current approaches in developing mixed source TMDLs? What could be the key steps and essential components for demonstrating reasonable assurance? What are the main challenges and what are some ways of overcoming them? How would reasonable assurance affect cost and pace? How would reasonable assurance influence setting state priorities for implementation of TMDLs? Where should the 303(d) program head with regard to reasonable assurance?

10:00 am – 10:30 am Morning Break

10:30 am – 12:00 pm

Session #6
Antidegradation
Auditorium

Facilitator
Sandra Nichols, ELI

Session Coordinator
John Goodin, EPA HQ

Panel Presentations and Q&A

(1) Introduction to Antidegradation and Impaired Waters

John Goodin, EPA HQ

(2) Antidegradation Policy and Procedures in Florida

Julie Espy, FL

Session #6 Outcomes:

- *Participants will learn the extent to which some states have incorporated antidegradation principles into their CWA programs.*
- *Participants will better understand how antidegradation policies and implementation procedures may influence listing decisions and how to address antidegradation requirements in listing.*
- *Participants will learn about potential next steps for addressing antidegradation in 303(d) listing.*

Discussion Questions: How does one assess waters in these circumstances? What environmental benefits can be gained through listing for antidegradation? Is this a reasonable means of addressing threatened waters? What happens when degradation occurs through nonpoint source pathways? Is antidegradation review to occur for the waterbody or by pollutant? Will antidegradation apply to nonpoint sources or just for new point sources?

12:00 pm – 1:00 pm

Lunch
Commons Dining Room

1:00 pm – 2:00 pm

Session #7
Recovery Potential
Auditorium

Facilitator
Adam Schempp, ELI

Session Coordinator
Doug Norton, EPA HQ

Panel Presentations and Q&A

(1) Introduction to Recovery Potential

Doug Norton, EPA HQ

(2) Vermont's Experience with the Recovery Potential Methodology

Tim Clear, VT

Session #7 Outcomes:

- *Participants will learn about various experiences in using recovery potential, how it has worked, and how its implementation can be improved.*
- *Participants will better understand opportunities for using recovery potential.*
- *Participants will better understand EPA's framework for recovery potential – a method for setting restoration priorities.*

Discussion Questions: Can recovery potential be used to set priorities? Can we use this tool to help identify “priority management zones” to focus implementation activities within watersheds?

2:00 pm – 2:30 pm

Afternoon Break

2:30 pm – 3:30 pm

Session #8
Legacy Pollutants
Auditorium

Facilitator
Bruce Myers, ELI

Session Coordinator
Rik Rasmussen, CA

Panel Presentations and Q&A

(1) “Developing TMDLs for Waters Impaired by PCBs” Draft Document

Sarah Furtak, EPA HQ

(2) Legacy Pollutants in California

Rik Rasmussen, CA

Session #8 Outcomes:

- *Participants will better understand what approaches have been taken to address legacy pollutants in the TMDL arena.*
- *Participants will better understand how well certain approaches have worked in practice, what led to success, what hasn't, and why.*

Discussion Questions: In what ways can a TMDL assist in addressing legacy pollutants? What policy issues have arisen in this process and how have they been handled? Are a clean-up plan and ROD developed for a clean-up site sufficient for a clean-up plan under 4(b)?

3:30 pm – 6:00 pm Participant Discussion and Networking Session
(Activity options to be selected on Day 1)

6:00 pm – 7:00 pm Dinner
Commons Dining Room

7:00 pm – 8:00 pm **Informal Evening Session**
Climate Change and Water Quality
Auditorium

Facilitator
Sandra Nichols, ELI

Watershed Modeling to Evaluate Potential Climate Impacts
Thomas Johnson, EPA ORD Global Change Research Program

Climate Change and 303(d) Program

Christine Ruf, EPA HQ

Evening Session Outcomes:

- *Participants will learn about national-scale watershed modeling that EPA ORD is conducting to assess the potential impacts of climate change on hydrology and water quality in 20 large watersheds.*
- *Participants will better understand how the TMDL program is starting to evaluate methods to factor climate change impacts into future TMDL development.*

8:00 pm – 9:00 pm Reception
Guest Lodge Lounge Area

Thursday, April 28

*2011 Training Workshop on Listing & TMDLs
Day 3: The Way Forward*

6:30 am – 8:00 am Breakfast (Open)
Commons Dining Room

8:00 am – 10:00 am **Session #9**
Coordination: Among State Agencies, with EPA, and Others
Auditorium

Facilitator
Adam Schempp, ELI

Session Coordinator
Jason Sutter, AZ

Panel Presentations and Q&A

(1) The Challenge of Co-managing Programs with EPA
Helen Bresler, WA

(2) Balancing on a Tight Rope: Coordination Between Opposing Forces
Carl Adams, UT

(3) Nonpoint Source (319) Projects – Successful Collaboration Stories
Chuck Berger, LA

Session #9 Outcomes:

- *Participants will learn how other states and tribes have addressed coordination issues between agencies.*
- *Participants will better understand the complexities of coordinating with key federal agencies relevant to water quality.*
- *Participants will set the stage for continued discussion among state and tribal water quality agencies and federal agencies about how to strengthen coordination and relationships.*

Discussion Questions:

What approaches have been shown to improve coordination between states and EPA? How can differences in regional and national goals be addressed to improve productivity? What challenges have recent changes in state regulations and rules created for continued coordination with stakeholders and completion of TMDLs? Other federal programs do not always adhere to state regulations (e.g., permitting authority) or recognize state efforts (e.g., nonpoint source)

when developing or implementing projects; how can EPA help coordinate federal and state programs where a common goal is shared? What has proven effective in overcoming the obstacles to intrastate agency cooperation posed by different mandates or goals across state agencies?

10:00 am – 10:30 am Morning Break

10:30 am – 12:00 pm **Final Discussion and Training Workshop Wrap-Up**
Auditorium

Facilitator
Sandra Nichols & Adam Schempp, ELI

Plenary Discussion

EPA Remarks

John Goodin, EPA HQ

Final Discussion Outcomes:

- *Progress toward a list of state and EPA issues and actions that, if addressed, could advance efforts to meet water quality standards.*
- *Progress in evaluating current mechanisms for communication and coordination and identifying new means with promise for success.*

12:00 pm – 1:00 pm Lunch
Commons Dining Room

NCTC Check-Out & Departure

1:00 pm Departure of Shuttle Bus for Dulles Airport (for participants with Thursday or Friday flights)